

1 AN ORDINANCE AUTHORIZING THE
2 CITY OF FORT WAYNE, TO ISSUE ITS
3 "ECONOMIC DEVELOPMENT FIRST MORTGAGE
4 REVENUE BONDS, SERIES 1981
5 (GLADIEUX REFINERY, INC. PROJECT)"
6 AND APPROVING OTHER ACTIONS IN RESPECT THERETO.

7 WHEREAS, the Fort Wayne Economic Development Commission
8 has rendered its Project Report on the application of GLADIEUX
9 REFINERY, INC., regarding the financing of proposed economic
10 development facilities consisting of three storage tanks with
11 foundations and pilings and a crude oil furnace at 4133 New
12 Haven Avenue, in Wayne Township, and the County Plan Commission
13 has commented favorably thereof; and

14 WHEREAS, the Fort Wayne Economic Development Commission
15 conducted a public hearing on December 29, 1980, and also
16 adopted a Resolution on said date, which Resolution has
17 been transmitted hereto, finding that the financing of cer-
18 tain economic development facilities as described in the
19 project complies with the purposes and provisions of I.C.
20 §18-6-4.5, and that such financing will be of benefit to
21 the health and welfare of the City of Fort Wayne and its
22 citizens; and

23 WHEREAS, the Fort Wayne Economic Development Commission
24 has heretofore approved and recommended the adoption of this
25 form of Ordinance by this Common Council and has approved the
26 forms of and has transmitted for approval by the Common Coun-
27 cil the financing documents including: Loan Agreement, Mort-
28 gage and Indenture of Trust and Bonds.

29 NOW THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF
30 THE CITY OF FORT WAYNE, INDIANA, THAT:

31 SECTION 1. It is hereby found that the financing of
32 the economic development facilities referred to in the Loan
33 Agreement approved by the Fort Wayne Economic Development
34 Commission and presented to this Common Council, the issuance

1 and sale of revenue bonds, the loan of the proceeds of the
2 revenue bonds to the applicant for the acquisition and con-
3 struction of such facilities and the equipping thereof, the
4 payment of the revenue bonds by the applicant under the Loan
5 Agreement, and the securing of said bonds by such facilities
6 under the financing documents complies with the purposes and
7 provisions of I.C. §18-6-4.5, and will be of benefit to the
8 health and welfare of the City of Fort Wayne, Indiana and
9 its citizens.

10 SECTION 2. The final forms of the financing documents
11 approved by the Fort Wayne Economic Development Commission
12 are hereby approved and all such documents (herein collect-
13 ively referred to as the "Financing Agreement" referred to
14 in I.C. §18-6-4.5), shall be incorporated herein by refer-
15 ence and shall be inserted in the minutes of the Common
16 Council and kept on file by the Clerk.

17 SECTION 3. The City of Fort Wayne shall issue its Eco-
18 nomic Development First Mortgage Revenue Bonds, Series 1981
19 (GLADIEUX REFINERY, INC. PROJECT) in the total principal amount
20 of \$700,000.00, dated May 1, 1981 payable with interest at
21 70% of the prime commercial lending rate established by the
22 Lincoln National Bank and Trust Company of Fort Wayne, and
23 subject to a change in the interest rate from time to time
24 and each change in such established interest rate to be ef-
25 fective on the date such change is established, payable on
26 the first day of each month commencing June 1, 1981, until
27 said principal sum is due, May 1, 1987, for the purpose of
28 procuring funds to pay the costs of acquisition and con-
29 struction of the economic development facilities as more
30 particularly set out in the financing documents incorporated
31 herein by reference which bonds will be payable as to princi-
32 pal, premium, if any, and interest from the note payments

1 made by the applicant under the Loan Agreement and Note or
2 as otherwise provided in the financing documents. The bonds
3 shall never constitute a general obligation of, an indebted-
4 ness of, or a charge against the general credit of the City
5 of Fort Wayne, Indiana.

6 SECTION 4. The Mayor, Clerk and/or Controller are author-
7 ized and directed to sell such bonds to the purchasers thereof
8 at a rate of interest per annum on the bonds not less than
9 that provided therein, and at a price not less than the
10 principal amount thereof.


11 SECTION 5. The Mayor and Clerk are authorized and directed
12 to execute the documents constituting the financing agreement
13 herein on behalf of the City and any other document which may
14 be necessary or desirable to consummate the transaction, in-
15 cluding the bonds authorized herein. The signatures of the
16 Mayor and Clerk on the bonds may be facsimile signatures.
17 The Clerk is authorized to arrange for delivery of such bonds
18 to the Trustee named in the Loan Agreement, payment for which
19 will be made to said Trustee and delivered by the Trustee to
20 the purchasers thereof.

21 SECTION 6. The provisions of this Ordinance and the fin-
22 ancing documents securing the bonds shall constitute a contract
23 binding between the City of Fort Wayne, Indiana and the holder
24 of the Economic Development First Mortgage Revenue Bonds, Series
25 1981 (GLADIEUX REFINERY, INC. PROJECT), and after the issuance
26 of said bonds, this Ordinance shall not be repealed or amended
27 in any respect which would adversely affect the rights of such
28 holders so long as any of said bonds or the interest thereon
29 remains unpaid.
30
31
32

1 SECTION 7. This Ordinance shall be in full force and
2 effect from and after its passage and signing by the Mayor.

3
4 
5 COUNCILMAN

6 APPROVED AS TO FORM AND
7 LEGALITY.

8 
9 David B. Keller, Attorney for the
Economic Development Commission

10 Dated this _____ day of _____, 1981.

Read the first time in full and on motion by V. Schmidt, seconded by Stier, and duly adopted, read the second time by title and referred to the Committee Finance (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Chambers, City-County Building, Fort Wayne, Indiana, on _____, 19____, the _____ day of _____, at _____ o'clock _____ M., E.S.T.

DATE: 5-12-81

Charles W. Westerman
CHARLES W. WESTERMAN
CITY CLERK

Read the third time in full and on motion by V. Schmidt, seconded by Stier, and duly adopted, placed on its passage. PASSED (YEAS) by the following vote:

	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>	<u>TO-WIT:</u>
<u>TOTAL VOTES</u>	<u>9</u>	<u>0</u>			
<u>BURNS</u>	<u>✓</u>				
<u>EISBART</u>	<u>✓</u>				
<u>GIAQUINTA</u>	<u>✓</u>				
<u>NUCKOLS</u>	<u>✓</u>				
<u>SCHMIDT, D.</u>	<u>✓</u>				
<u>SCHMIDT, V.</u>	<u>✓</u>				
<u>SCHOMBURG</u>	<u>✓</u>				
<u>STIER</u>	<u>✓</u>				
<u>TALARICO</u>	<u>✓</u>				

DATE: 6-2-81

Charles W. Westerman
CHARLES W. WESTERMAN - CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (ZONING MAP) (GENERAL) (ANNEXATION) (SPECIAL) (APPROPRIATION) ORDINANCE (RESOLUTION) No. A-126-81 on the 2nd day of June, 1981.

ATTEST:

(SEAL)

Charles W. Westerman
CHARLES W. WESTERMAN - CITY CLERK

John Nuckols
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 3rd day of June, 1981, at the hour of 11:00 o'clock A. M., E.S.T.

Charles W. Westerman
CHARLES W. WESTERMAN - CITY CLERK

Approved and signed by me this 3rd day of June 1981, at the hour of 3 o'clock P. M., E.S.T.

Winfield C. Moses, Jr.
WINFIELD C. MOSES, JR.
MAYOR

BILL NO. S-81-05-08

REPORT OF THE COMMITTEE ON FINANCE

WE, YOUR COMMITTEE ON Finance TO WHOM WAS REFERRED AN

ORDINANCE AUTHORIZING THE CITY OF FORT WAYNE, TO ISSUE ITS

"ECONOMIC DEVELOPMENT FIRST MORTGAGE REVENUE BONDS,

SERIES 1981 (GLADIEUX REFINERY, INC. PROJECT)" AND APPROVING

OTHER ACTIONS IN RESPECT THERETO

HAVE HAD SAID ORDINANCE UNDER CONSIDERATION AND BEG LEAVE TO REPORT
BACK TO THE COMMON COUNCIL THAT SAID ORDINANCE Do PASS.

VIVIAN G. SCHMIDT, CHAIRMAN

JAMES S. STIER, VICE CHAIRMAN

MARK E. GIAQUINTA

PAUL M. BURNS

ROY J. SCHOMBURG

CONCURRED IN

DATE CHARLES W. WESTERMAN, CITY CLERK

DIGEST SHEET

S-81-05-08

TITLE OF ORDINANCE: SpecialDEPARTMENT REQUESTING ORDINANCE: Economic Development Commission

SYNOPSIS OF ORDINANCE: An Ordinance authorizing the City of Fort
Wayne, Indiana to issue its "Economic Development First Mortgage
Revenue Bonds, Series 1981 (GLADIEUX REFINERY, INC. PROJECT) and
approval of final financing documents. An Inducement Resolution
was previously adopted by City Council for this Project.

EFFECT OF PASSAGE: Permanent Financing of FacilitiesEFFECT OF NON-PASSAGE: None of the aboveMONEY INVOLVED (DIRECT COSTS, EXPENDITURES, SAVINGS): None

ASSIGNED TO COMMITTEE (PRESIDENT): _____

MINUTES

FORT WAYNE ECONOMIC DEVELOPMENT COMMISSION

May 19, 1981

A meeting of the Fort Wayne Economic Development Commission was held in Room 128 of the City County Building, Fort Wayne, Indiana, on May 19, 1981, at 11:00 a.m.

Commission members present were: Sidney Sheray, Charles Henry, Phil Howard and Timothy Borne. (Absent was: Dr. Jack Gren).

The meeting was called to order by Secretary Sidney Sheray.

* * *

(Other Business)

The next item of business was the final approval of the application of Gladieux Refinery, Inc. Legal notice of the public hearing for Gladieux Refinery, Inc. was duly published in the Fort Wayne Journal Gazette on May 14, 1981. Attorney Donald Strutz spoke on behalf of Gladieux Refinery, Inc. He reported that Lincoln National Bank and Trust Company of Fort Wayne is purchasing the issue of \$700,000. The interest rate is to be 70% of the prime commercial lending rate of the Lincoln National Bank and Trust Company of Fort Wayne for a term of six years. No one spoke in opposition to the project. Mr. Henry moved that the project be approved, and Mr. Borne seconded the motion which was then unanimously approved.

* * *

(Other Business)

Following the executive session, there being no further business, the meeting was adjourned.

Timothy Borne, Secretary
Economic Development Commission

FORT WAYNE ECONOMIC DEVELOPMENT COMMISSION
FORT WAYNE, INDIANA

May 19, 1981

Common Council of the
City of Fort Wayne
City-County Building
One Main Street
Fort Wayne, Indiana 46802

RE: City of Fort Wayne, Indiana
Economic Development Revenue Bonds
(GLADIEUX REFINERY, INC. Project)
Series 1981

Councilmen and Mrs. Schmidt:

Pursuant to the provisions of I.C. §18-6-4.5-17, there are enclosed copies of the following:

1. Resolution containing a report on the proposed financing of economic development facilities, which report has been submitted to the President of the Allen County Plan Commission having jurisdiction where the facilities are to be located, together with excerpts from the minutes of the December 29, 1980 meeting of the Fort Wayne Economic Development Commission evidencing adoption of such resolution.
2. Resolution approving the proposed financing and approving the form and terms of Economic Development Revenue Bonds, Loan Agreement Mortgage and Indenture of Trust, and Bonds together with excerpts of the minutes of the May 19, 1981 meeting of the Fort Wayne Economic Development Commission evidencing a public hearing on the proposed financing of such economic development facilities and adoption of such resolution.
3. Each of the financing documents referred to in the preceding paragraph.

The Fort Wayne Economic Development Commission requests that you consider these enclosures and the proposed financing contemplated thereby, and take such additional action as is necessary to complete such financing.

FORT WAYNE ECONOMIC DEVELOPMENT
COMMISSION

BY: 

Its Secretary

FINAL RESOLUTION
APPROVING PROPOSED FINANCING OF
ECONOMIC DEVELOPMENT FACILITIES FOR
GLADIEUX REFINERY, INC.

WHEREAS, the Fort Wayne Economic Development Commission (the "Commission") has heretofore made a report making certain findings with respect to the proposed financing by the City of Fort Wayne, Indiana (the "City") for Gladieux Refinery, Inc. (the "Company"), of the cost of economic development facilities located in an unincorporated area of Allen County, Indiana; and

WHEREAS, the Executive Director of the Allen County Plan Commission has furnished a report to the Commission; and

WHEREAS, the Commission has held a public hearing on the proposed financing and desires to make a record of this resolution that the proposed financing complies with the purposes and provisions of I.C. §18-6-4.5 and to approve the form and terms of such financing.

NOW, THEREFORE, BE IT RESOLVED by the Fort Wayne Economic Development Commission, as follows:

1. The proposed financing of the cost of economic development facilities by the City of Fort Wayne, Indiana, for the Company is hereby found to be of benefit to the welfare of the City and of Allen County, and to comply with the purposes and provisions of I.C. §18-6-4.5.
2. The economic development facilities will not have an adverse competitive effect on similar facilities already constructed and operating in or near the City.
3. The Commission approves the proposed financing and the proposed form and terms of:

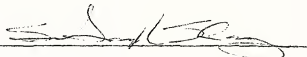
(a) City of Fort Wayne Economic Development Revenue Bonds, Series 1981 (Gladieux Refinery, Inc. Project) in the aggregate amount of \$700,000 (the "Bonds"). The Bonds mature in six years from date and bear interest at the rate of 70% of the prime commercial lending rate of the Lincoln National Bank and Trust Company of Fort Wayne. The Bonds are proposed to be issued by the City for the purpose of lending the proceeds to the Company to pay for such economic development facilities; and

(b) Loan Agreement whereby the City lends the bond proceeds to the Company to pay the costs of acquisition and construction of such facilities and the repayment of which is upon terms sufficient to retire, and is the source of payment of, the bonds and interest thereon including a Promissory Note from the Company to evidence its obligations thereunder; and

(c) Mortgage and Indenture of Trust from the City to Lincoln National Bank and Trust Company of Fort Wayne, as Trustee, securing said bonds; and Indenture of Trust may contain such insubstantial changes from the form now before this meeting as the Common Council and the attorney for the Commission may approve; and

4. The Secretary of the Commission is hereby authorized and directed to transmit this Resolution and all other instruments and information pertaining to the proposed financing to the Common Council of the City.

Passed and Approved May 19, 1981.



Its President

ATTEST:



Its Secretary

GLADIEUX REFINERY, INC.

AND

CITY OF FORT WAYNE, INDIANA

TO

LINCOLN NATIONAL BANK AND TRUST COMPANY OF FORT WAYNE
as Trustee

MORTGAGE AND INDENTURE OF TRUST

Dated as of May 1, 1981

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MORTGAGE AND INDENTURE OF TRUST

THIS MORTGAGE AND INDENTURE OF TRUST (the "Indenture") made and entered into as of May 1, 1981, among the City of Fort Wayne, a municipal corporation organized and existing under the laws of the State of Indiana ("Issuer"), Gladieux Refinery, Inc., a corporation organized and existing under the laws of the State of Indiana ("Company"), and Lincoln National Bank and Trust Company of Fort Wayne, Fort Wayne, Indiana, a national banking association, with its principal office located at Fort Wayne, Indiana, as Trustee ("Trustee").

WITNESSETH:

WHEREAS, the Indiana Code, Title 18, Article 6, Chapter 4.5 (the "Act"), has been enacted by the Legislature of Indiana; and

WHEREAS, the Act declares that the financing of economic development facilities constitutes a public purpose; and

WHEREAS, the Act provides that an issuer may pursuant to the Act issue revenue bonds and loan the proceeds thereof to a corporation for the purpose of financing all costs of acquisition or construction of facilities, including real and personal property, for diversification of economic development and promotion of job opportunities in or near such issuer, such revenue bonds being payable primarily from the revenues derived from the repayment of such loan; and

WHEREAS, the Act provides that such bonds may be secured by a trust indenture between the Issuer and a corporate trustee; and

WHEREAS, pursuant to and in accordance with the provisions of the Act, by ordinance of the legislative body of the City of Fort Wayne, in furtherance of the purposes of the Act, Issuer proposes to make a loan to Gladieux Refinery, Inc., an Indiana corporation, for the purpose of financing the economic development facilities under construction or to be constructed in the City of Fort Wayne, Indiana, consisting of certain economic development facilities described in Exhibit A hereto; and Issuer proposes to provide funds for such loan by the issuance of its revenue bonds in the aggregate principal amount of \$700,000 under this Mortgage and Indenture of Trust and to secure said loan by an assignment and pledge of the agreement pursuant to which the loan is made and Company's promissory note issued to evidence the debt created by said loan, and the

Company will secure said loan by its promissory note, by granting a mortgage of its interest in the Project Site (as hereinafter defined) and Building (as hereinafter defined) and assigning and mortgaging its interest in the Land Contract (as hereinafter defined) pursuant to the direction of Issuer to Trustee for the benefit of the Bondholders (as hereinafter defined), and by subjecting the Project Equipment and the Certificate (as hereinafter defined) pursuant to the direction of the Issuer to the lien of this Indenture; and

WHEREAS, Issuer proposes to loan to Company, and Company desires to borrow from Issuer funds, to defray the cost of financing the Project and certain incidental costs upon the terms and conditions set forth in the Agreement, and Issuer proposes to make the loan and the Company proposes to issue its promissory note to evidence such loan upon the terms and conditions set forth in said Agreement, and Company proposes to mortgage its interest in the Project Site (as hereinafter defined) and Building (as hereinafter defined) and to assign and mortgage its interest in the Land Contract (as hereinafter defined) to the Trustee for the benefit of the Bondholders, and to subject the Project Equipment and the Certificate (as hereinafter defined) to the lien of this Indenture; and

WHEREAS, it has been determined that the estimated amount necessary to finance the cost of the Project, including necessary expenses incidental thereto, will require the issuance, sale and delivery of economic development first mortgage revenue bonds in the principal amount of \$700,000 (the "Series 1981 Bonds"), as hereinafter provided; and

WHEREAS, the coupon Series 1981 Bonds and the interest coupons to be attached thereto and registered Series 1981 Bonds without coupons and Trustee's certificate of authentication to be endorsed on such Series 1981 Bonds are to be in substantially the following form, with appropriate variations, omissions and insertions as permitted or required by this indenture, to-wit:

(Form of Fully Registered Series 1981 Bond)

No. _____

\$ _____

UNITED STATES OF AMERICA
STATE OF INDIANA
CITY OF FORT WAYNE
ECONOMIC DEVELOPMENT
REVENUE BOND, SERIES 1981
(GLADIEUX REFINERY, INC. PROJECT)

The City of Fort Wayne, a municipal corporation
organized and existing under the laws of the State of

Indiana ("Issuer"), for value received, promises to pay from the source and as hereinafter provided to Lincoln National Bank and Trust Company of Fort Wayne or registered assigns, upon presentation hereof, in installments as set forth below, the principal sum of Seven Hundred Thousand Dollars (\$700,000) and in like manner to pay interest (calculated on the basis of 360-day year composed of twelve 30-day months) on said sum from the date hereof at the rate per annum of seventy percent (70%) of the prime commercial lending rate established by Lincoln National Bank and Trust Company of Fort Wayne at its principal office from time to time, each change in such established rate to be effective on the date such change is established, payable on the first day of each month commencing June 1, 1981, until said principal sum is paid, except as the provisions hereinafter set forth with respect to redemption prior to maturity may become applicable hereto. Principal of this Series 1981 Bond is payable on October 1, 1981, and on the first day of each month thereafter to and including May 1, 1987, in the amount of \$_____ for each payment. Principal of and interest on this Series 1981 Bond is payable in lawful money of the United States of America at the principal office of Lincoln National Bank and Trust Company of Fort Wayne, Fort Wayne, Indiana, as Trustee, or its successor in trust ("Trustee"), or by check or draft mailed or delivered to the registered owner at the address of such owner as it appears on the Bond Register.

The monthly payments specified in this Series 1981 Bond shall be applied first to the payment of interest on the unpaid principal indebtedness, the balance to the reduction of said principal, provided that if the regular monthly payment is made in advance, the interest shall be computed and immediately collected from such advance payment as if the regular monthly payment was made when due. Prepayments of principal shall reduce the number of installment payments, but shall not reduce the amount of such installment payments as provided for above.

This Series 1981 Bond is one of an authorized issue of Economic Development Revenue Bonds, Series 1981 (Gladieux Refinery, Inc. Project) ("Series 1981 Bonds") limited, except as provided with respect to Additional Bonds in a Mortgage and Indenture of Trust dated as of May 1, 1981 (which document as from time

to time amended and supplemented, is hereinafter referred to as the "Indenture"), in aggregate principal amount of \$700,000 issued for the purpose of financing certain economic development facilities ("Project"), in the City of Fort Wayne, Indiana, for Gladioux Refinery, Inc., an Indiana corporation ("Company"), and paying necessary expenses incidental thereto so as to promote diversification of economic development and job opportunities in and near the City of Fort Wayne, Indiana. The proceeds of the Series 1981 Bonds will be loaned by Issuer to Company ("Loan") under the terms of a Loan Agreement for the Project dated as of May 1, 1981 (which agreement as from time to time amended and supplemented is hereinafter referred to as the "Agreement"), and Company has issued a Series 1981 Promissory Note dated as of May 1, 1981, ("Series 1981 Note") as security for its obligation to repay the Loan. The Series 1981 Bonds are all issued under and are equally and ratably secured by and entitled to the protection of the Indenture, duly executed and delivered by Issuer and Company to Trustee, which Indenture is recorded in the office of the Recorder of Allen County, Indiana. It is provided in the Indenture that Issuer may hereafter issue Additional Bonds from time to time under certain terms and conditions contained therein; and if issued, such Additional Bonds will rank pari passu with this issue of Series 1981 Bonds. (The Series 1981 Bonds and any Additional Bonds hereafter issued shall be referred to as the "Bonds.")

Reference is made to the Indenture for a description of the property mortgaged, and interests pledged and assigned, the provisions, among others, with respect to the nature and extent of the security, the rights, duties and obligations of Issuer, Company, Trustee and the holders of the Series 1981 Bonds and terms upon which the Series 1981 Bonds are issued and secured and the terms and conditions upon which the Series 1981 Bonds will be deemed to be paid at or prior to maturity or redemption of the Series 1981 Bonds, upon the making of provision for the payment thereof in the manner set forth in the Indenture, and to all the provisions of which the holder hereof by the acceptance of this Series 1981 Bond assents.

The Series 1981 Bonds are issuable in the form of registered Series 1981 Bonds without coupons in the denomination of \$5,000 or any multiple thereof.

This Series 1981 Bond is transferable by the registered holder hereof in person or by his attorney duly authorized in writing at the principal office of the Trustee in the City of Fort Wayne, Indiana, but only in the manner, subject to the limitations and upon payment of the charges provided in the Indenture, and upon surrender of this Series 1981 Bond. Upon such transfer a new registered Series 1981 Bond or Bonds without coupons of authorized denomination or denominations, for the same aggregate principal amount will be issued to the transferee in exchange therefor. The Issuer, the Trustee and any agent of the Issuer may deem and treat the registered holder hereof as the absolute owner hereof for the purpose of receiving payment of or on account of principal hereof and premium, if any, hereon and interest due hereon and for all other purposes and neither the Issuer, the Trustee nor any agent of the Issuer shall be affected by any notice to the contrary.

If called for redemption, the Series 1981 Bonds shall be subject to redemption by Issuer on any interest payment date, in whole or in part (in inverse order of maturities) at 100% of the principal amount thereof, plus accrued interest to the redemption date.

In the event of the occurrence of a Determination of Taxability (as defined in the Agreement), interest on the Series 1981 Bonds shall increase to the Taxable Rate (as defined in the Agreement) during the period from the date interest on the Series 1981 Bonds became taxable until the Series 1981 Bonds are paid. Payments are to be made as required by Section 3.01 of the Indenture.

If funds are deposited in the Bond Fund for redemption of Bonds pursuant to Sections 2.2(k), 3.6, 4.10, 4.11 or 5.2 of the Agreement, the Bonds shall be subject to redemption by Issuer on any interest payment date, in whole or in part (in inverse order of maturities and by lot within maturities in such manner as Trustee may determine), at 100% of the principal amount thereof plus accrued interest to the redemption date.

In the event any of the Bonds are called for redemption as aforesaid, notice thereof identifying the Bonds or portions thereof to be redeemed will be

given by Trustee by publication at least twice in a newspaper or financial journal of general circulation published in the City of Fort Wayne, Indiana, the first of which shall be published not less than thirty days prior to the redemption date, and in the case of the redemption of Bonds at the time registered as to principal (except to bearer) upon mailing a copy of the redemption notice by registered or certified mail at least thirty days prior to the date fixed for redemption to the registered owner of each Bond to be redeemed at the address shown on the registration books; provided, however, that failure to give such notice by mailing or any defect therein, shall not affect the validity of any proceeding for the redemption of Bonds. If all of the Bonds to be redeemed are at that time registered as to principal (except to bearer), notice by mailing given by registered or certified mail to the owner or owners thereof not less than thirty days prior to the date fixed for redemption shall be sufficient and published notice of the call for redemption need not be given; provided, however, that failure to give such notice by mailing, or any defect therein, shall not affect the validity of any proceeding for the redemption of any Bond with respect to which no such failure has occurred. All Bonds so called for redemption will cease to bear interest after the specified redemption date provided funds for their redemption are on deposit at the place of payment at that time. If, because of the temporary or permanent suspension of the publication or general circulation of any newspaper or financial journal or for any other reason, it is impossible or impractical to publish such notice of call for redemption in the manner herein provided, then such publication in lieu thereof as shall be determined by Trustee shall constitute a sufficient publication of notice.

The Series 1981 Bonds are issued pursuant to and in full compliance with the constitution and laws of the State of Indiana, particularly the Indiana Code, Title 18, Article 6, Chapter 4.5 and pursuant to an ordinance adopted by Issuer which ordinance authorizes the execution and delivery of the Agreement and the Indenture. This Series 1981 Bond and the issue of which it forms a part are limited obligations of Issuer and are payable solely out of the revenues and other amounts derived from the Series 1981 Note and the Agreement. Neither the State of Indiana, nor Issuer, nor any political subdivision shall be obligated to pay the principal of the Series 1981 Bonds or

the interest thereon or other costs incident thereto except from the revenues and money pledged therefor. Neither the faith and credit nor the taxing power of the State of Indiana or any political subdivision thereof is pledged to the payment of the principal of the Series 1981 Bonds and the interest thereon or other costs incident thereto. Payments sufficient for the prompt payment when due of the principal of, premium, if any, and interest on the Series 1981 Bonds are to be paid to Trustee for the account of Issuer and deposited in a special account created by Issuer and designated "City of Fort Wayne, Indiana, Economic Development Revenue Bond Fund (Gladieux Refinery, Inc. Project)", and have been duly pledged and assigned for that purpose, and in addition the rights of Issuer under the Agreement and the Series 1981 Note have been assigned to Trustee to secure payment of such principal, premium, if any, and interest under the Indenture.

The holder of this Series 1981 Bond shall have no right to enforce the provisions of the Indenture or to institute action to enforce the covenants therein, or to take any action with respect to any event of default under the Indenture, or to institute, appear in or defend any suit or other proceedings with respect thereto, except as provided in the Indenture. In certain events, on the conditions, in the manner and with the effect set forth in the Indenture, the principal of all of the Series 1981 Bonds issued under the Indenture and then outstanding may become or may be declared due and payable before the stated maturity thereof, together with interest accrued thereon. The Indenture prescribes the manner in which it may be discharged, including a provision that the Series 1981 Bonds shall be deemed to be paid if Governmental Obligations, as defined therein, maturing as to principal and interest in such amounts and at such times as will provide sufficient funds to pay the principal of, premium, if any, and interest on the Series 1981 Bonds and all fees and expenses of Trustee and any paying agent, and all other liabilities of Company under the Agreement, shall have been deposited with Trustee, after which the Series 1981 Bonds shall no longer be secured by or entitled to the benefits of the Indenture, except for the purposes of registration and exchange of Series 1981 Bonds and of any such payment from such Governmental Obligations.

The Indenture permits, with certain exceptions as therein provided, the amendment thereof and the modification of the rights and obligations of Company and Issuer and the rights of holders of the Bonds of all series at any time by Issuer with the consent of Company and the holders of two-thirds in aggregate principal amount of the Bonds of all series at the time outstanding, as defined in the Indenture. Any such consent or waiver by the holder of this Series 1981 Bond shall be conclusive and binding upon such holder and upon all future holders of this Series 1981 Bond and of any Series 1981 Bond issued upon the transfer or exchange of this Series 1981 Bond whether or not notation of such consent or waiver is made upon this Series 1981 Bond. The Indenture also contains provisions permitting Trustee to waive certain past defaults under the Indenture and their consequences.

It is hereby certified, recited and declared that all acts, conditions and things required to exist, happen and be performed precedent to and in the execution and delivery of the Indenture and the issuance of this Series 1981 Bond do exist, have happened and have been performed in due time, form and manner as required by law; that the issuance of this Series 1981 Bond and the issue of which it forms a part, together with all other obligations of Issuer, do not exceed or violate any constitutional or statutory limitation; and that the revenues pledged to the payment of the principal of, premium, if any, and interest on this Series 1981 Bond and the issue of which it forms a part, as the same become due, will be sufficient in amount for that purpose.

This Series 1981 Bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Indenture until the certificate of authentication hereon shall have been signed by Trustee.

IN WITNESS WHEREOF, the City of Fort Wayne, Indiana, has caused this Series 1981 Bond to be executed in its name by the manual or facsimile signature of the Mayor and its corporate seal to be hereunto impressed or imprinted hereon and attested by the

manual or facsimile signature of its Clerk, all as of May 1, 1981.

CITY OF FORT WAYNE, INDIANA

By _____
Mayor

Attest:

Clerk

(SEAL)

(Form of Trustee's Certificate of Authentication)

This Series 1981 Bond is one of the Series 1981 Bonds of the issue described in the within-mentioned Mortgage and Indenture of Trust.

LINCOLN NATIONAL BANK AND
TRUST COMPANY OF FORT
WAYNE, as Trustee

By _____
Authorized Officer

Assignment

For Value Received _____
hereby sell(s), assign(s) and transfer(s) unto _____

(Please print or typewrite
name and address including
postal zip code of transferee)

(Social security number
of transferee)

the within Bond, together with accrued interest thereon and all right, title and interest thereto, and hereby irrevocably authorize(s) and appoint(s) _____ attorney to transfer said Bond on

manual or facsimile signature of its Clerk, all as of
May 1, 1981.

CITY OF FORT WAYNE, INDIANA

By _____
Mayor

Attest:

Clerk

(SEAL)

(Form of Trustee's Certificate of Authentication)

This Series 1981 Bond is one of the Series 1981
Bonds of the issue described in the within-mentioned
Mortgage and Indenture of Trust.

LINCOLN NATIONAL BANK AND
TRUST COMPANY OF FORT
WAYNE, as Trustee

By _____
Authorized Officer

Assignment

For Value Received
hereby sell(s), assign(s) and transfer(s) unto _____

(Please print or typewrite
name and address including
postal zip code of transferee)

(Social security number
of transferee)

the within Bond, together with accrued interest
thereon and all right, title and interest thereto, and
hereby irrevocably authorize(s) and appoint(s)
_____ attorney to transfer said Bond on

the books of the within named Issuer with full power of substitution in the premises.

Dated _____ L.S.

In the presence of

and;

WHEREAS, all things necessary to make the Series 1981 Bonds, when authenticated by Trustee and issued as in this Indenture provided, the valid, binding and legal obligations of Issuer according to the import thereof, and to constitute this Indenture a valid lien on the properties mortgaged and a valid assignment and pledge of the amounts to be paid for the principal of, premium, if any, and interest on the Series 1981 Bonds and a valid assignment and pledge of the rights of Issuer under the Agreement (as hereinafter defined) and the Series 1981 Note (as hereinafter defined) have been done and performed, and the creation, execution and delivery of this Indenture, and the creation, execution and issuance of the Series 1981 Bonds, subject to the terms hereof, have in all respects been duly authorized;

NOW, THEREFORE, THIS MORTGAGE AND INDENTURE OF TRUST
WITNESSETH

GRANTING CLAUSES

The Issuer and Company in consideration of the premises and in consideration of the Loan (as hereinafter defined) under the Agreement (as hereinafter defined) and the acceptance by Trustee of the trusts hereby created and of the purchase and acceptance of the Series 1981 Bonds by the holders and owners thereof, and of the sum of one dollar, lawful money of the United States of America, to them duly paid by Trustee at or before the execution and delivery of these presents, and for other good and valuable considerations, the receipt of which is hereby acknowledged, in order to secure the payment of the principal of, premium, if any, and interest on the Series 1981 Bonds according to their tenor and effect and to secure the performance and observance by Issuer and Company of all the covenants expressed or implied herein and in the Series 1981 Bonds, do hereby grant, bargain, sell, convey, mortgage, warrant, assign and pledge, and grant a security interest in, the

following to Lincoln National Bank and Trust Company of Fort Wayne, as Trustee, and its successors in trust and assigns forever, for the securing of the performance of the obligations of Issuer and Company hereinafter set forth:

GRANTING CLAUSE FIRST

Company grants the right, title and interest of Company in the real estate described in Exhibit A attached hereto and made a part hereof (hereinafter defined as "Project Site"), together with the entire interest of the Company in the Land Contract, together with the entire interest of Company in and to all buildings, structures, improvements and appurtenances now standing, or at any time hereafter constructed or placed, upon such real estate (hereinafter defined as "Building"), including all right, title and interest of Company, if any, in and to all building material, building equipment and fixtures of every kind and nature whatsoever on said real estate or in any building, structure or improvement now or hereafter standing on said real estate, and the reversion or reversions, remainder or remainders, in and to said real estate and together with the entire interest of Company in and to all and singular the tenements, hereditaments, easements, rights-of-way, rights, privileges and appurtenances to said real estate, belonging or in anywise appertaining thereto, and all claims or demands whatsoever of Company either at law or in equity, in possession or expectancy of, in and to said real estate, it being the intention of the parties hereto that, so far as may be permitted by law, all property of the character hereinabove described, which is now owned or is hereafter acquired by Company and is affixed or attached or annexed to said real estate, shall be and remain or become and constitute a portion of said real estate and the security covered by and subject to the lien of this Indenture, subject, however, to Permitted Encumbrances (as hereinafter defined).

GRANTING CLAUSE SECOND

Issuer hereby grants, assigns and pledges the Agreement and has endorsed the Series 1981 Note (as hereinafter defined) including all extensions and renewals of the term thereof, if any, together with all right, title and interest of Issuer therein, including, but without limiting the generality of the foregoing, the present and continuing right to make claim for, collect, receive and receipt for any of the income, revenues, issues and profits and other sums of money payable or receivable thereunder, to bring actions and proceedings thereunder or for the enforcement thereof, and to do any and all things which Issuer is or may become entitled to do under the Agreement or the Note; provided, that the assignment and pledge made by this clause shall not impair or diminish any obligation of Issuer under the Agreement.

GRANTING CLAUSE THIRD

All moneys and securities from time to time held by Trustee under the terms of this Indenture (except moneys or Governmental Obligations deposited with Trustee pursuant to Article VII hereof) and any and all other real or personal property of every name and nature from time to time hereafter by delivery or by writing of any kind conveyed, mortgaged, pledged, assigned, or transferred as and for additional security hereunder by Issuer, Company or by anyone in their behalf, or with their written consent to Trustee which is hereby authorized to receive any and all such property at any and all times and to hold and apply the same subject to the terms hereof.

GRANTING CLAUSE FOURTH

Company grants a security interest in the machinery, equipment and other tangible personal property owned by it and described in Exhibit A attached hereto and made a part hereof (hereinafter defined as "Project Equipment") (which machinery, equipment and property is to be located on the real estate described in Exhibit A), excluding property installed by Company pursuant to Sections 4.8 and 7.7 of the Agreement (as hereinafter defined) together with all other machinery, equipment and further tangible personal property which is now owned or hereafter acquired by Company and which is now or at any time hereafter located on the real estate described in Exhibit A attached hereto and made a part hereof, excluding property installed by Company pursuant to Section 4.8 and 7.7 of the Agreement; subject, however, to Permitted Encumbrances (as hereinafter defined).

GRANTING CLAUSE FIFTH

Company pledges and assigns and grants a security interest in the Certificate.

TO HAVE AND TO HOLD all and singular the trust estate, whether now owned or hereafter acquired, unto Trustee and its respective successors in said trust and assigns forever.

IN TRUST NEVERTHELESS, upon the terms and trusts herein set forth for the equal and proportionate benefit, security and protection of all present and future holders and owners of the Bonds (as hereinafter defined) and the bearers of all coupons appertaining thereto, from time to time, issued under and secured by this Indenture without privilege, priority or distinction as to the lien or otherwise of any of the Bonds (as hereinafter defined) or coupons appertaining thereto over any of the other Bonds (as hereinafter defined) or coupons;

PROVIDED, HOWEVER, that if Issuer, its successors or assigns, shall well and truly pay, or cause to be paid, the principal of, premium, if any, and interest on the Bonds (as hereinafter defined) due or to become due thereon, at the times and in the manner mentioned in the Bonds (as hereinafter defined) and the interest coupons appertaining to the coupon Bonds (as hereinafter defined), respectively, according to the true intent and meaning thereof, and shall cause the payments to be made on the Bonds (as hereinafter defined) as required under Article IV hereof, or shall provide, as permitted hereby, for the payment thereof by depositing with Trustee the entire amount due or to become due thereon, and shall well and truly keep, perform and observe all the covenants and conditions pursuant to the terms of this Indenture to be kept, performed and observed by it, and shall pay or cause to be paid to Trustee all sums of money due or to become due to it in accordance with the terms and provisions hereof, then upon the final payment thereof this Indenture and the rights hereby granted shall cease, determine and be void; otherwise this Indenture to be and remain in full force and effect.

THIS INDENTURE OF TRUST FURTHER WITNESSETH, and it is expressly declared that, all Bonds (as hereinafter defined) issued and secured hereunder are to be issued, authenticated and delivered and all said property, rights and interests, including, without limitation, the amounts hereby assigned and pledged are to be dealt with and disposed of under, upon and subject to the terms, conditions, stipulations, covenants, agreements, trusts, uses and purposes as hereinafter expressed, and Issuer and Company have agreed and covenanted, and do hereby agree and covenant with Trustee and with the respective holders and owners of the Bonds (as hereinafter defined) or coupons as follows (subject, however, to the provisions of Section 2.03 hereof):

ARTICLE I

DEFINITIONS

All words and phrases defined in Article I of the Agreement shall have the same meaning in this Indenture. In addition, the following words and phrases shall have the following meanings:

"Agreement" means the Loan Agreement dated as of May 1, 1981, between Issuer and Company and any amendments and supplements thereto.

"Bondholder" or "holder" or "owner of the Bonds" means the bearer of any coupon Bond not registered as to principal or registered to bearer and the registered owner of any coupon Bond registered as to principal (except to bearer), if any coupon Bonds are provided for herein, and the registered owner of any registered Bond without coupons. The word "holder" when used with reference to a coupon shall mean the bearer of such coupon.

"Default" and "event of default" mean any occurrence or event specified in and defined by Section 8.01 hereof.

"Governmental Obligations" means any of the following which are non-callable and which at the time of investment are legal investments under the laws of Indiana for the moneys proposed to be invested therein:

(i) direct general obligations of, or obligations the payment of the principal and interest of which are unconditionally guaranteed by, the United States of America;

(ii) bonds, debentures, or notes issued by any of the following Federal agencies: Bank for Cooperatives, Federal Home Loan Banks, Federal Home Loan Mortgage Corporation, Federal Intermediate Credit Banks, Federal Land Banks, or Federal National Mortgage Association (including Participation Certificates); or

(iii) Public Housing Bonds, Temporary Notes, or Preliminary Loan Notes, fully secured by contracts with the United States.

"Outstanding" or "Bonds outstanding" means all Bonds which have been authenticated and delivered by Trustee under this Indenture, except:

ARTICLE I

DEFINITIONS

All words and phrases defined in Article I of the Agreement shall have the same meaning in this Indenture. In addition, the following words and phrases shall have the following meanings:

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"Bondholder" or "holder" or "owner of the Bonds" means the bearer of any coupon Bond not registered as to principal or registered to bearer and the registered owner of any coupon Bond registered as to principal (except to bearer), if any coupon Bonds are provided for herein, and the registered owner of any registered Bond without coupons. The word "holder" when used with reference to a coupon shall mean the bearer of such coupon.

"Default" and "event of default" mean any occurrence or event specified in and defined by Section 8.01 hereof.

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- (iii) Public Housing Bonds, Temporary Notes, or Preliminary Loan Notes, fully secured by contracts with the United States.

"Outstanding" or "Bonds outstanding" means all Bonds which have been authenticated and delivered by Trustee under this Indenture, except:

(a) Bonds cancelled after purchase in the open market or because of payment at or redemption prior to maturity;

(b) Bonds for the payment or redemption of which cash funds or securities shall have been theretofore deposited with Trustee (whether upon or prior to the maturity or redemption date of any such Bonds); provided that, if such Bonds are to be redeemed prior to the maturity thereof, notice of such redemption shall have been given or arrangements satisfactory to Trustee shall have been made therefor, or waiver of such notice satisfactory in form to Trustee shall have been filed with Trustee; and

(c) Bonds in lieu of which others have been authenticated under Section 2.07 hereof.

"Registered Owner" means the person or persons in whose name or names a Bond shall be registered on books of Trustee kept for that purpose in accordance with the terms of this Indenture.

"Trust estate" means the property, rights, moneys, securities and other amounts conveyed to Trustee pursuant to the Granting Clauses hereof.

"Trustee" means Lincoln National Bank and Trust Company of Fort Wayne, and its successors and any corporation resulting from or surviving any consolidation or merger to which it or its successors may be a party and any successor trustee at the time serving as successor trustee hereunder.

(End of Article I)

ARTICLE II

THE BONDS

Section 2.01. Authorized Amount of Series 1981 Bonds. No Bonds may be issued under the provisions of the Indenture except in accordance with this Article. The total principal amount of Series 1981 Bonds that may be issued is hereby expressly limited to \$700,000, except as provided in Section 2.07 and 2.12 hereof.

Section 2.02. Issuance of Bonds; Denomination; Numbers. Any Bonds issued pursuant to the Indenture may be issued as registered Bonds without coupons.

Registered Series 1981 Bonds without coupons issued on or subsequent to the first interest payment date thereon shall be dated as of the date one (1) month preceding the interest payment date next following the date of authentication and delivery thereof, unless such date of authentication and delivery shall be an interest payment date, in which case they shall be dated as of such date of authentication and delivery; provided, however, that if, as shown by the records of the Trustee, interest on the Series 1981 Bonds shall be in default, registered Bonds without coupons issued in exchange for Series 1981 Bonds surrendered for transfer or exchange shall be dated as of the date to which interest has been paid in full on the Series 1981 Bonds surrendered.

Registered Bonds without coupons shall be issued in the denomination of \$5,000 or a multiple thereof and shall be numbered from R-1 consecutively upwards.

The principal of, interest and premium, if any, on the Bonds shall be payable at the principal office of the Trustee, except that the interest on registered Bonds without coupons shall be payable by check or draft drawn upon the Trustee mailed to the address of the holder thereof as it appears in the Bond Register, as herein defined.

Section 2.03. Execution; Limited Obligations. The Bonds shall be executed on behalf of Issuer with the manual or facsimile signature of the Mayor, and shall have affixed, impressed, imprinted or otherwise reproduced thereon the corporate seal of Issuer or a facsimile thereof and attested by the manual or facsimile signature of its Clerk. The coupons attached to the coupon Bonds, if any are provided for herein, shall bear the facsimile signatures of said Mayor and Clerk. All authorized facsimile signatures shall have the same force

and effect as if manually signed. The Bonds, together with interest thereon, are not general obligations of Issuer but are limited obligations payable solely from the revenues and other amounts derived from the Note or Notes and Agreement (except to the extent paid out of moneys attributable to the proceeds derived from the sale of the Bonds or to income from the temporary investment thereof and, under certain circumstances, to proceeds from insurance and condemnation awards) and shall be a valid claim of the respective holders thereof only against the Bond Fund and other moneys held by Trustee and the revenues and other amounts derived from the Note or Notes and Agreement, (but in addition shall be secured by a mortgage lien on the Project) which revenues and other amounts are hereby pledged, assigned and otherwise secured for the equal and ratable payment of the Bonds and shall be used for no other purpose than to pay the principal of, premium, if any, and interest on the Bonds, except as may be otherwise expressly authorized in this Indenture. Neither the State of Indiana, Issuer or any other political subdivision of such State shall be obligated to pay the principal of such Bonds or the interest thereon or other costs incident thereto except from the revenues and money pledged therefor. Neither the faith and credit nor the taxing power of the State of Indiana, Issuer or any political subdivision is pledged to the payment of the principal of such Bonds or the interest thereon or other costs incident thereto. In case any official of Issuer whose signature or facsimile of whose signature shall appear on the Bonds or coupons shall cease to be such official before the delivery of such Bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes, the same as if he had remained in office until delivery.

Section 2.04. Authentication. No Bond and no coupon appertaining to any coupon Bond, if any are permitted hereunder, shall be valid or obligatory for any purpose or entitled to any security or benefit under this Indenture unless and until a certificate of authentication on such Bond substantially in the form hereinabove shall have been duly executed by Trustee, and such executed certificate of Trustee upon any such Bond shall be conclusive evidence that such Bond has been authenticated and delivered under this Indenture. Trustee's certificate of authentication on any Bond shall be deemed to have been executed by it if signed by an authorized officer of Trustee, but it shall not be necessary that the same officer sign the certificate of authentication on all of the Bonds issued hereunder. Before authenticating or delivering any coupon Bonds, Trustee shall detach and cancel all matured coupons, if any, appertaining thereto, and such cancelled coupons shall be cremated or otherwise destroyed by Trustee in accordance with Section 2.10.

Section 2.05. Forms of Series 1981 Bonds. The Series 1981 Bonds in coupon form issued under this Indenture, if any are permitted hereunder, and the coupons appertaining to such coupon Bonds and the Series 1981 Bonds in registered form shall be substantially in the form hereinabove set forth with such variations, omissions and insertions as are permitted or required by this Indenture.

Section 2.06. Issuance and Delivery of Series 1981 Bonds. The Series 1981 Bonds shall be designated "City of Fort Wayne Economic Development Revenue Bonds, Series 1981 (Gladieux Refinery, Inc. Project)", shall, except as otherwise provided in Section 2.02, be dated May 1, 1981, and shall bear interest per annum at the rate of seventy percent (70%) of the prime commercial lending rate established by Lincoln National Bank and Trust Company of Fort Wayne at its principal office from time to time, each change in such established rate to be effective on the date such change is established, payable on the first day of each month commencing June 1, 1981. Principal of the Series 1981 Bonds is payable on October 1, 1981, and on the first day of each month thereafter to and including May 1, 1987, in the amount of \$_____ for each payment.

The Series 1981 Bonds may be issued in the form of registered Bonds without coupons.

Upon the execution and delivery of this Indenture, Issuer shall execute and deliver to Trustee and Trustee shall authenticate the Series 1981 Bonds and deliver them to the purchasers as directed by Issuer as hereinafter in this Section provided.

Prior to the delivery by Trustee of any of the Series 1981 Bonds there shall be filed with Trustee:

1. A copy, duly certified by the Clerk of Issuer, of the ordinance adopted by Issuer, authorizing the issuance of the Series 1981 Bonds and the execution and delivery of this Indenture and the Agreement.
2. A copy, duly certified by the Secretary of Company, of the resolutions adopted by Company, authorizing the execution and delivery of this Indenture, the Agreement and the Series 1981 Note or Notes.
3. Original executed counterparts of the Agreement, this Indenture and the originally executed Series 1981 Note or Notes.

4. Title insurance or a binder for such title insurance in the form of an ALTA owner-mortgagee title policy in the face amount of \$700,000 issued by a company duly authorized to issue same or copy of same.

5. The written opinion of counsel for Company expressing the conclusion that, in reliance upon said title insurance policy and a certificate of an officer of Company with respect to the proposed location of the Building and the operations to be conducted on the Project Site, Company has good and marketable title to the Building and Project Site (subject to Permitted Encumbrances).

6. A request and authorization to Trustee on behalf of Issuer and signed by the Clerk of Issuer to authenticate and deliver the Series 1981 Bonds to the purchasers therein identified upon payment to Trustee, but for the account of Issuer, of a sum specified in such request and authorization plus accrued interest thereon to the date of delivery. The proceeds of such payment shall be paid over to Trustee and deposited in the Bond Fund and the Construction Fund pursuant to Article V hereof.

7. The written opinion of counsel for the Issuer expressing the conclusion that the execution, filing and recordation of this Indenture has been duly accomplished.

Section 2.07. Mutilated, Lost, Stolen or Destroyed Bonds.
In the event any Bond is mutilated, lost, stolen or destroyed, Issuer may execute and Trustee may authenticate a new Bond of like series, date, maturity and denomination as that mutilated, lost, stolen or destroyed (which new Bond shall have attached thereto coupons corresponding in all respects to those, if any, on the Bonds mutilated, lost, stolen or destroyed); provided that, in the case of any mutilated Bond, such mutilated Bond together with all coupons appertaining thereto, if any, shall first be surrendered to Issuer, and in the case of any lost, stolen or destroyed Bond, there shall be first furnished to Issuer and Trustee evidence of such loss, theft or destruction satisfactory to Issuer and Trustee, together with any indemnity satisfactory to them. In the event any such Bond shall have matured, instead of issuing a duplicate Bond, Issuer may pay the same without surrender thereof. Issuer and Trustee may charge the holder or owner of such Bond with their reasonable fees and expenses in this connection.

Section 2.08. Registration of Bonds; Persons Treated as Owners. So long as any of the Bonds shall remain outstanding, the Trustee shall keep a register for the registration and transfer of Bonds (herein referred to as the "Bond Register").

All coupon Bonds, if any, shall be transferable by delivery, unless registered as to principal other than to bearer. Any coupon Bond may be registered as to principal in the Bond Register, upon presentation thereof at the principal office of the Trustee, and the payment of a charge as required under Section 2.09 hereof, and such registration shall be noted on such Bond. After such registration, no transfer thereof shall be valid unless made on the Bond Register at the written request of the registered owner or his attorney duly authorized in writing, and similarly noted on such Bond; but such Bond may be discharged from registration by being in like manner transferred to bearer, after which it shall again become transferable by delivery. Thereafter such Bond may again, from time to time, be registered or discharged from registration in the same manner. Registration of any coupon Bond as to principal, however, shall not affect the transferability by delivery of the coupons appertaining to such Bond, but such coupons shall continue to pass by delivery and shall remain payable to bearer.

Each registered Bond without coupons shall be transferable only on the Bond Register at the principal office of the Trustee, at the written request of the registered owner thereof or his attorney duly authorized in writing, upon surrender thereof, together with a written instrument of transfer satisfactory to the Trustee duly executed by the registered owner or his duly authorized attorney.

The Issuer, the Trustee and any agent of the Issuer may treat the bearer of any coupon Bond not registered as to principal and bearer of any coupon, whether or not the Bond to which it appertains is registered as to principal, as the absolute owner of such Bond or coupon for the purpose of receiving payment thereof or on account thereof and for all other purposes, whether or not such Bond or coupon be overdue, and neither the Issuer, the Trustee nor any agent of the Issuer shall be affected by notice to the contrary. The Issuer, the Trustee and any agent of the Issuer may treat the person in whose name any registered Bond, whether with or without coupons, is registered as the owner of such Bond for the purpose of receiving payment of principal of, and if such Bond be a registered Bond without coupons, interest on such Bond and for all other purposes whatsoever (except the payment of coupons appertaining to any coupon Bond registered as to principal), whether or not such Bond is overdue, and neither the Issuer, the Trustee nor any agent of the Issuer shall be affected by notice to the contrary.

Section 2.09. Exchange; Transfer. Coupon Bonds, if any, upon surrender thereof at the principal office of the Trustee with all unmatured coupons attached, may, at the option of the holder thereof, be exchanged for an equal aggregate principal amount of registered Bonds without coupons of the same series, maturity and interest rate of any of the authorized denominations.

Registered Bonds without coupons, upon surrender thereof at the principal office of the Trustee with a written instrument of transfer satisfactory to the Trustee, duly executed by the registered owner or his duly authorized attorney, may at the option of the holder thereof, be exchanged for an equal aggregate principal amount of coupon Bonds of the same series, maturity and interest rate with appropriate coupons attached, or of registered Bonds without coupons of the same series, maturity and interest rate of any other authorized denominations.

In all cases in which the privilege of exchanging Bonds or transferring registered Bonds without coupons is exercised, the Issuer shall execute and the Trustee shall deliver Bonds in accordance with the provisions of the Indenture. For every exchange or transfer of Bonds the Issuer or the Trustee may make a charge sufficient to reimburse it for any tax, fee or other governmental charge required to be paid with respect to such exchange or transfer, which sum or sums shall be paid by the person requesting such exchange or transfer as a condition precedent to the exercise of the privilege of making such exchange or transfer. Notwithstanding any other provision of this Indenture, the cost of preparing each new coupon Bond or registered Bond without coupons upon each exchange or transfer, and any other expenses of the Issuer or the Trustee incurred in connection therewith (except any applicable tax, fee or other governmental charge) shall be paid by the Company pursuant to the Agreement. The Trustee shall not be obliged to make any such exchange or transfer of Bonds during the 15 days next preceding an interest payment date on the Bonds. The Trustee shall not be obliged to make any transfer or exchange of any Bonds called for redemption within 60 days of the redemption date.

Section 2.10. Destruction of Bonds. Whenever any outstanding Bond or any coupon appertaining thereto, if any, shall be delivered to Trustee for cancellation pursuant to this Indenture, upon payment of the principal amount or interest represented thereby, or for replacement pursuant to Section 2.07 or if a matured coupon, if any, shall be detached prior to authentication of the Bonds pursuant to Section 2.04, such Bond

and coupon shall be promptly cancelled and cremated or otherwise destroyed by Trustee and counterparts of a certificate of destruction evidencing such cremation or other destruction shall be furnished by Trustee to Issuer and Company.

Section 2.11. Priority Over Other Liens. This Indenture is given in order to secure funds to pay for new construction and by reason thereof it is intended that this Indenture shall be superior to any laborers', mechanics', or materialmens' liens which may be placed on the Project.

Section 2.12. Additional Bonds. So long as the Agreement and the Note or Notes are in effect and with the consent of the holders of 100% of the principal amount of the Bonds then outstanding, one or more series of Additional Bonds may be issued, authenticated and delivered in an aggregate principal amount approved by attorneys of recognized standing on the subject of municipal bonds for the purpose of providing funds for completing the Project or making additions to the Project. Such Additional Bonds shall be payable solely from the revenues and other amounts derived from the Agreement and an Additional Note or Notes issued by Company to pay the principal of, premium, if any, and interest on such Additional Bonds (except to the extent paid out of moneys attributable to the proceeds derived from the sale of Additional Bonds or to income from the temporary investment thereof and, under certain circumstances, to proceeds from insurance and condemnation awards). The Additional Bonds of each such series shall be authenticated by Trustee and, upon payment to Trustee of the proceeds of said sale of Additional Bonds, they shall be delivered by Trustee to or upon the order of the purchasers thereof, but only upon the filing with Trustee of:

(1) A copy duly certified by the Clerk of Issuer of the ordinance adopted by Issuer authorizing the issuance of the Additional Bonds and the execution and delivery of the supplemental indenture and the amendment to the Agreement.

(2) Original executed counterparts of the supplemental indenture, an Additional Note or Notes and an amendment of the Agreement.

(3) The Additional Note or Notes executed by Company.

(4) A written opinion by an attorney or firm of attorneys of recognized standing on the subject of municipal bonds, to the effect that the issuance of the Additional Bonds and the execution thereof have been duly authorized, all conditions precedent to the delivery thereof have been

fulfilled, and that the exemption from federal income tax of the interest on the Series 1981 Bonds and any Additional Bonds theretofore issued will not be affected by the issuance of the Additional Bonds being issued.

(5) A written order to Trustee by Issuer to authenticate and deliver the Additional Bonds to the purchaser or purchasers therein identified upon payment to Trustee of a specified sum plus accrued interest.

(6) The written opinion of the City Attorney expressing the conclusion that the execution, filing and recordation of the supplemental indenture has been duly accomplished.

(7) A title insurance policy or a binder for such title insurance or an endorsement to the original title insurance policy in the form of an ALTA mortgagee's title policy in an amount at least equal to the value of the real estate and building improvements, if any, to be acquired or constructed and paid for out of the proceeds of the Additional Bonds.

Each series of Additional Bonds issued pursuant to this Section shall rank pari passu and be equally and ratably secured under the Indenture with the Series 1981 Bonds and all other series of Additional Bonds, if any, theretofore issued pursuant to this Section, without preference, priority or distinction of any Bonds or coupons over any other thereof.

Notwithstanding anything herein to the contrary no Additional Bonds shall be issued unless the Agreement and Note or Notes are in effect and there is no default at the time of issuance under the Agreement, the Note or Notes or under this Indenture.

Section 2.13. Applicability of Bond Terms. The provisions of this Indenture directly relevant to coupons and coupon Bonds or to fully registered Bonds without coupons shall have force and effect only to the extent that the series of Bonds authorized under Section 2.02 hereof or under any supplemental indentures hereto are issuable as coupon Bonds or fully registered Bonds without coupons, or both.

(End of Article II)

ARTICLE III

REDEMPTION OF BONDS BEFORE MATURITY; INCREASED INTEREST

Section 3.01. Redemption Dates and Prices; Increased Interest Upon the Occurrence of A Determination of Taxability. If called for redemption, the Series 1981 Bonds shall be subject to redemption by Issuer on any interest payment date in whole or in part (in inverse order of maturities) at 100% of the principal amount thereof, plus accrued interest to the redemption date.

If funds are deposited in the Bond Fund for redemption of Bonds pursuant to Sections 2.2(k), 3.6, 4.10, 4.11 or 5.2 of the Agreement, the Bonds shall be subject to redemption by Issuer on any interest payment date, in whole or in part (in inverse order of maturities and by lot within maturities in such manner as Trustee may determine), at 100% of the principal amount thereof plus accrued interest to the redemption date.

In the event of the occurrence of a Determination of Taxability, interest on the Series 1981 Bonds shall increase to the Taxable Rate from the Date of Taxability until the Series 1981 Bonds are paid. Sixty (60) days after the Determination of Taxability (the "Payment Date") payments attributable to the increased interest on the Series 1981 Bonds from the Date of Taxability to the first day of the month during which the Determination of Taxability occurred. Beginning on the first month after the Determination of Taxability, the increased interest shall begin to be payable at the Taxable Rate and shall accrue for the entire month during which the Determination of Taxability occurred.

Section 3.02. Notice of Redemption. Notice of the call for any redemption identifying the Bonds to be redeemed, shall be given by Trustee by publication at least twice in a newspaper or financial journal of general circulation published in the City of Fort Wayne, Indiana, the first of which shall be published not less than thirty days prior to the redemption date, and in the case of the redemption of Bonds registered as to principal (except to bearer), upon mailing a copy of the redemption notice at least thirty days prior to the date fixed for redemption to the Registered Owner of each Bond to be redeemed at the address shown on the registration books; provided, however, that failure to give such notice by mailing, or any defect therein, shall not affect the validity of any proceedings for the redemption of Bonds. If all of the Bonds to be redeemed are at that time registered as to principal (except to bearer), such notice shall be by mailing only in the manner specified by the preceding sentence, which notice shall be

sufficient and published notice of the call for redemption need not be given; provided, however, that failure to give such notice by mailing, or any defect therein, shall not affect the validity of the proceedings for the redemption of any Bond with respect to which no such failure has occurred.

Any notice mailed as provided in this Section shall be conclusively presumed to have been duly given, whether or not the Registered Owner receives the notice.

If, because of the temporary or permanent suspension of the publication or general circulation of any newspaper or financial journal or for any other reason, it is impossible or impractical to publish such notice of call for redemption in the manner herein provided, then such publication in lieu thereof as shall be determined by Trustee shall constitute a sufficient publication of notice.

Section 3.03. Redemption Payments. Prior to the date fixed for redemption, funds shall be deposited with Trustee to pay, and Trustee is hereby authorized and directed to apply such funds to the payment of the Bonds or portions thereof called, together with accrued interest thereon to the redemption date and any required premium. Upon the giving of notice and the deposit of funds for redemption, interest on the Bonds or portions thereof thus called shall no longer accrue after the date fixed for redemption. No payment shall be made by Trustee upon any Bond or portion thereof called for redemption until such Bond and all coupons appertaining thereto, if any, (representing interest which would except for such redemption have accrued from and after the redemption date) shall have been delivered for payment or cancellation or Trustee shall have received the items required by Section 2.07 hereof with respect to any mutilated, lost, stolen or destroyed Bond or coupon appertaining to the coupon Bonds, if any.

Section 3.04. Cancellation. All Bonds which have been redeemed shall not be reissued but shall be cancelled and cremated or otherwise destroyed by Trustee in accordance with Section 2.10 hereof.

Section 3.05. Partial Redemption of Bonds. If less than the entire principal amount of the Bonds at the time outstanding is called for redemption, such redemption of principal shall not effect a change in the amount of the monthly payments due, under the Bonds but a record of such redemption of principal shall be kept and a revised schedule of the allocation of such monthly payments to principal and interest shall be prepared by the Trustee and provided to Issuer and Company.

CITY OF FORT WAYNE, INDIANA

AND

GLADIEUX REFINERY, INC.

LOAN AGREEMENT

Dated as of May 1, 1981

LOAN AGREEMENT
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(This Table of Contents is not a part of the Loan Agreement and is only for convenience of reference.)

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LOAN AGREEMENT

LOAN AGREEMENT dated as of May 1, 1981, between the City of Fort Wayne, a municipal corporation organized and existing under the laws of the State of Indiana ("Issuer"), and Gladioux Refinery, Inc., a corporation organized and existing under the laws of the State of Indiana ("Company"):

WITNESSETH:

WHEREAS, the Indiana Code, Title 18, Article 6, Chapter 4.5 (the "Act"), has been enacted by the Legislature of Indiana; and

WHEREAS, the Act provides that an issuer may pursuant to the Act issue revenue bonds and loan the proceeds thereof to a developer or user for the purpose of financing all costs of purchase or construction of facilities, including real and personal property, for diversification of economic development and promotion of job opportunities in or near such issuer, such revenue bonds being payable primarily from the revenues derived from the repayment of such loan; and

WHEREAS, pursuant to and in accordance with the provisions of the Act, by ordinance or ordinances of the legislative body of the Issuer, in furtherance of the purposes of the Act, Issuer proposes to make a loan to Company for the purpose of acquisition, construction, installation and equipping of economic development facilities under construction or to be constructed in the City of Fort Wayne, Indiana consisting of certain economic development facilities described in Exhibit A hereto; and Issuer proposes to provide funds for such loan by the issuance of its revenue bonds in the aggregate principal amount of \$700,000 under a Mortgage and Indenture of Trust and to secure said revenue bonds by an assignment and pledge of the agreement pursuant to which the loan is made and Company's promissory note issued to evidence and secure the debt created by said loan, and by directing the Company, in consideration of this loan, to mortgage and assign its interest in the Project Site (as hereinafter defined) and Building (as hereinafter defined) to a corporate trustee for the benefit of the bondholders; by subjecting the Project Equipment (as hereinafter defined) to the lien of the Indenture; and by assigning and pledging the Certificate (as hereinafter defined) to the Trustee as security for the Bonds (as hereinafter defined); and

WHEREAS, Issuer proposes to loan to Company and Company desires to borrow from Issuer funds to defray the cost of financing the Project and certain incidental costs thereto and

to issue its promissory note to secure such loan upon the terms and conditions set forth herein, to mortgage and assign its interest in the Project Site (as hereinafter defined) and Building (as hereinafter defined) to a corporate trustee for the benefit of the bondholders in consideration of the loan to it by the Issuer, to subject the Project Equipment (as hereinafter defined) and to assign, pledge, and subject the Certificate (as hereinafter defined) to the lien of the Indenture in consideration of the loan to it by the Issuer;

NOW, THEREFORE, for and in consideration of the premises and the mutual covenants hereinafter contained, the parties hereto agree as follows:

ARTICLE I

DEFINITIONS

"Act" shall mean the Indiana Code, Title 18, Article 6, Chapter 4.5.

"Additional Bonds" means the bonds of Issuer issued pursuant to Section 2.12 of the Indenture.

"Additional Note or Notes" means the one or more promissory notes of Company to be issued as security for any additional obligations of Company to repay any additional loans to Company in the event of the issuance of Additional Bonds by Issuer.

"Agreement" means this Loan Agreement and any amendments and supplements hereto.

"Agreement Term" means the duration of this agreement as specified in Section 10.1 hereof.

"Bonds" means the Economic Development Revenue Bonds, Series 1981 (Gladieux Refinery, Inc. Project) and any Additional Bonds of the Issuer, if any are permitted to be issued pursuant to the Indenture.

"Bond Fund" means the fund created in Section 5.02 of the Indenture.

"Building" means all buildings, structures and facilities forming a part of the Project and not constituting a part of the Project Equipment.

"Certificate" means the \$70,000 non-interest bearing certificate of deposit of the Company on deposit with Lincoln National Bank and Trust Company of Fort Wayne, which is pledged and assigned to the Trustee as additional security for the Bonds.

"Commission" means the Fort Wayne Economic Development Commission, an economic development commission created by the Issuer.

"Company" means (i) Gladieux Refinery, Inc., an Indiana corporation, and its successors and assigns and (ii) any surviving, resulting or transferee corporation as provided in Section 6.2 hereof.

"Completion Date" means the date of completion of the construction of the Project, as that date shall be certified as provided in Section 3.6 hereof.

"Construction Fund" means the fund created in Section 5.06 of the Indenture.

"Costs of Construction" with respect to the Project shall be deemed to include those items included in Section 23 of the Act including, but not limited to:

- (i) obligations of Issuer or of Company incurred for labor and materials (including obligations payable to Company) in connection with the acquisition, construction, installation and equipping of the Project;

- (ii) the cost of contract bonds and of insurance of all kinds that may be required or necessary during the course of construction of the Project;

- (iii) all costs and expenses of site preparation, engineering services, including the costs of Issuer or Company for test borings, surveys, estimates, plans and specifications and preliminary investigation therefor, and for supervising construction, as well as for the performance of all other duties required by or consequent upon the proper construction of the Project;

- (iv) all costs and expenses incurred in connection with the issuance of the Bonds for the purpose of providing funds for construction of the Project, including without limitation compensation and expenses of Trustee, underwriting and legal expenses of Trustee, underwriting and legal expenses and fees, costs of printing and engraving, recording and filing fees;

- (v) all costs and expenses which Issuer or Company shall be required to pay, under the terms of any contract or contracts, for the acquisition, construction, installation or equipping of the Project; and

- (vi) any sums required to reimburse Issuer or Company for advances made by either of them for any of the above items or for any other costs incurred and for work done by either of them which are properly chargeable to the Project.

"Date of Taxability" means the date upon which the interest on the Series 1981 Bonds becomes subject to federal income taxes to a holder of the Series 1981 Bonds, other than a substantial user or a related person, within the meaning of Section 103(b) (9) of the Internal Revenue Code of 1954, as amended, or a similar federal tax law then in effect.

"Determination of Taxability" means (1) any determination, decision or decree made by the Commissioner or any District Director of Internal Revenue Service, or by any court of competent jurisdiction that interest payable on the Series 1981 Bonds is includable in the gross income of a holder of the Series 1981 Bonds (other than a holder who is a substantial user or related person within the meaning of Section 103(b)(6)(c) of the Internal Revenue Code of 1954, as amended, or any similar federal law then in effect); or

(2) written notice by the Company to the Trustee that interest on the Series 1981 Bonds has become subject to federal income taxes to a holder of the Series 1981 Bonds other than a holder who is a substantial user or related person within the meaning of Section 103(b)(6)(c) of the Internal Revenue Code of 1954, as amended, or any similar federal law then in effect.

"Force Majeure" means any cause or event not reasonably within the control of the Company, including, without limitation, the following: acts of God; strikes, lockouts or industrial disturbances; acts of public enemies; restraining orders of any kind by the government of the United States of America or of the State of Indiana or any of their departments, agencies, or officials, or any civil or military authority; insurrections; riots; landslides; earthquakes; fires; storms; droughts; floods; explosions; breakage or accident to machinery, transmission pipes or canals.

"Indenture" means the Mortgage and Indenture of Trust, dated as of May 1, 1981, among Issuer, Company and Lincoln National Bank and Trust Company of Fort Wayne, Fort Wayne, Indiana, as Trustee, pursuant to which the Bonds are authorized to be issued and the interest of Issuer in this Agreement and in the Note or Notes and the revenues received by Issuer under this Agreement and under the Note or Notes, as well as the Project Site and Building, are to be pledged and mortgaged, and a security interest in the Project Equipment is granted, respectively, as security for the payment of principal of, premium, if any, and interest on the Bonds, including any indenture supplemental thereto.

"Issuer" means the City of Fort Wayne, a municipal corporation organized and existing under the laws of the State of Indiana.

"Land Contract" means that certain land contract between the Company and Junior and Betty Renz, dated July 20, 1977, pursuant to which the Company is acquiring the Project Site.

"Loan" means the loan by Issuer to Company of the proceeds from the sale of the Series 1981 Bonds.

"Net Proceeds", when used with respect to any insurance proceeds or any condemnation award, means the amount remaining after deducting all expenses (including attorneys' fees) incurred in the collection of such proceeds or award from the gross proceeds thereof.

"Note or Notes" means the Series 1981 Note or Notes and the Additional Note or Notes of the Company, if any, referred to in Section 4.1 hereof.

"Permitted Encumbrances" means, as of any particular time, (i) liens for ad valorem taxes and special assessments not then delinquent, (ii) this Agreement, those encumbrances permitted to exist under Section 4.9 of this Agreement and the Indenture, (iii) utility or water tower and associated facilities, access and other easements and rights-of-way, mineral rights, restrictions and exceptions that will not materially interfere with or impair the operations being conducted in the Building (or, if no operations are being conducted therein, the operations for which the Building was designed or last modified) or elsewhere on the Project Site, (iv) such minor defects, irregularities, encumbrances, easements, rights-of-way and clouds on title as normally exist with respect to properties similar in character to the Project and as do not in the aggregate materially impair the property affected thereby for the purpose for which it was acquired or is held by the Company, (v) mechanics' and materialmen's liens which are not filed or perfected in the manner prescribed by law, as in effect on the date hereof or otherwise, (vi) mechanics' and materialmen's liens filed or perfected in the manner prescribed by law which liens are presently the subject of good faith challenge by the Company, except as provided in Section 4.8 hereof and (vii) the Land Contract.

"Project" means the Company's interest in the Project Site, Building, the Land Contract and Project Equipment to be acquired and constructed in the City of Fort Wayne, Indiana, and consisting of those economic development facilities described in Exhibit A hereto.

"Project Equipment" means (i) those items of machinery, equipment and other tangible personal property required or permitted in Section 3.1(c) hereof to be acquired with the proceeds from the Loan or the proceeds of any payment by Company pursuant to the provisions of Section 3.7 hereof and listed in Exhibit A hereto, (ii) any item of machinery, equipment or other tangible personal property acquired in substitution for,

as a renewal or replacement of, or a modification or improvement to any Project Equipment, and (iii) any other machinery, equipment or other tangible personal property financed with the proceeds of Additional Bonds.

"Project Site" means the real estate, as described in the Project description, in the City of Fort Wayne, Indiana, on which the Project is located, which the Company is acquiring pursuant to the Land Contract.

"Series 1981 Bonds" means the \$700,000 aggregate principal amount of Bonds authorized to be issued by the Issuer pursuant to the terms and conditions of Section 2.06 of the Indenture.

"Series 1981 Note or Notes" means the Series 1981 Note or Notes which shall be executed and delivered by the Company to the Trustee in the form attached hereto as Exhibit B concurrently with the issuance of the Series 1981 Bonds.

"Taxable Rate" means the rate of interest equal to the prime commercial lending rate established by Lincoln National Bank and Trust Company of Fort Wayne at its principal office from time to time plus two and one-half percent (2 1/2%) per annum (which rate shall change from time to time effective with the change in the prime rate).

"Trustee" means the Trustee for the Bonds at the time serving as such under the Indenture.

(End of Article I)

ARTICLE II
REPRESENTATIONS

Section 2.1. Representations by Issuer. Issuer represents and warrants that:

(a) Issuer is a public body corporate and politic and an instrumentality of the State of Indiana. Under the provisions of the Act, Issuer is authorized to enter into the transactions contemplated by this Agreement and to carry out its obligations hereunder. Issuer has been duly authorized to execute and deliver this Agreement. Issuer agrees that it will do or cause to be done all things necessary to preserve and keep in full force and effect its existence.

(b) Issuer agrees to provide funds from the issuance of the Series 1981 Bonds for the acquiring, constructing, installing and equipping of the Project, as may be necessary, subject to the consideration of the Series 1981 Note or Notes and the Company directly granting a mortgage on the Project Site and Building to the Trustee, and a security interest in the Project Equipment to the Trustee, all for the benefit of the Bondholders, to the end that industry and the economy may be diversified and job opportunities promoted, and to secure the Bonds by pledging its interest in this Agreement and the Series 1981 Note or Notes to the Trustee.

(c) The Issuer represents that the Series 1981 Note or Notes will be assigned to the Trustee pursuant to the Indenture, and that no further assignment is contemplated by the Issuer, since the Issuer recognizes that the Series 1981 Note or Notes have not been registered under the Securities Act of 1933.

Section 2.2. Representations by Company. Company represents and warrants that:

(a) Company is a corporation duly incorporated and in good standing under the laws of the State of Indiana, and is qualified to transact business and is in good standing under the laws of the State of Indiana, is not in violation of any provision of its certificate of incorporation or its by-laws, has not received notice and has no reasonable grounds to believe that it is in violation of any laws in any manner material to its ability to perform its obligations under this Agreement and the Series 1981 Note or Notes, has power to enter into this Agreement and the

Series 1981 Note or Notes and has duly authorized the execution and delivery of this Agreement and the Series 1981 Note or Notes by proper corporate action.

(b) The indication of interest by the Issuer on the proceeds to Company to issue its Series 1981 Bonds and loan for the purposes set forth herein has encouraged Company to locate the Project in the City of Fort Wayne, Indiana, and will promote diversification of economic development and create new job opportunities in the area.

(c) Company agrees, in consideration of the Loan to it by the Issuer, to enter into the Indenture with the Trustee in order to mortgage its interest in the Project Site and Building thereon of the Project, to assign, mortgage and grant a security interest in its interest in the Land Contract and to grant a security interest in the Project Equipment, all for the benefit of the Bondholders.

(d) Substantially all (95% or more) of the proceeds from the Series 1981 Bonds will be used for the acquisition, construction and improvement of land, buildings or machinery and equipment for the Project. No part of the proceeds are to be used by the Company, directly or indirectly, as working capital or to finance inventory.

(e) The Project constitutes and will constitute either land or property of a character subject to the allowance for depreciation under Section 167 of the Internal Revenue Code of 1954, as amended.

(f) The Company will not use any of the funds provided by the Issuer hereunder in such manner as to, or take or omit to take any action which would, impair the exemption of interest on the Series 1981 Bonds from federal income taxation.

(g) The Company intends to operate or cause the Project to be operated as an economic development facility until the expiration or earlier termination of this Agreement as provided herein.

(h) The Project is of the type authorized and permitted by the Act.

(i) Neither the execution and delivery of this Agreement, the consummation of the transactions contemplated hereby including execution and delivery of the Series 1981 Note or Notes, and Indenture, nor the fulfillment of or

compliance with the terms and conditions of this Agreement, conflicts with or results in a breach of the terms, conditions or provisions of any corporate restriction or any agreement or instrument to which Company is now a party or by which it is bound, or constitutes a default under any of the foregoing, or results in the creation or imposition of any liens, charges, or encumbrances whatsoever upon any of the property or assets of Company under the terms of any instrument or agreement.

(j) The Project, or any component thereof, has not been acquired or constructed by the Company prior to the adoption of the Resolution of the legislative body of the City of Fort Wayne on _____, with respect to the Project.

(k) The Company will promptly obtain title insurance in the form of an ALTA owner-mortgagee title policy in the face amount of \$700,000, and will furnish a copy of such policy to the Trustee. Any Net Proceeds payable either to the Company or to the Trustee under such policy shall, at Company's option, be either (i) used to acquire and construct replacement or substitute property for that to which title has been lost and such property shall be subject to the lien of the Indenture, or (ii) used to redeem Bonds on the earliest possible redemption date.

(End of Article II)

ARTICLE III

COMMENCEMENT AND COMPLETION OF THE PROJECT; ISSUANCE OF THE BONDS

Section 3.1. Agreement to Acquire and/or Construct the Project. Company agrees that:

(a) It will make, execute, acknowledge and deliver any contracts, orders, receipts, writings and instructions with any other persons, firms or corporations and in general do all things which may be requisite or proper, all for acquiring, constructing, installing and completing the Project, to the extent permitted by law.

(b) It will cause the Project to be acquired and/or constructed as herein provided on the Project Site.

(c) It will cause to be acquired and installed in the Project or on the Project Site the Project Equipment, as well as any additional Project Equipment which in the reasonable judgment of Company may be necessary for operation of the Project, not exceeding the amounts available in the Construction Fund, and as shall from time to time prior to the Completion Date be specified in writing by Company, all of which acquisitions and installations shall be made in accordance with the Company's specifications and directions.

Company agrees to acquire, construct, install and equip the Project with all reasonable dispatch; and to use its best efforts to cause acquisition, construction, installation and equipping to be completed by _____ or as soon thereafter as may be practicable, delays incident to Force Majeure only excepted; but if for any reason such acquisition, construction, installation and equipping is not completed by said date there shall be no resulting liability on the part of Company and no diminution in or postponement of the payments required to be paid by Company under this Agreement or the Series 1981 Note or Notes.

Section 3.2. Ownership and Use of Project. Issuer and Company agree that title to and ownership of the Project shall remain in and be the sole property of Company in which Issuer shall have no interest, but the Company shall mortgage, assign and pledge the same to the Trustee on behalf of the holders of the Bonds to secure the payment of the Issuer's obligations thereunder.

Section 3.3. Agreement to Issue Series 1981 Bonds; Application of Bond Proceeds. In order to provide funds to make the Loan, Issuer will issue, sell and deliver to the initial purchasers thereof the Series 1981 Bonds and deposit the proceeds thereof with Trustee as follows:

(i) in the Bond Fund a sum equal to the accrued interest, if any, to be paid by the purchasers of the Series 1981 Bonds, and

(ii) in the Construction Fund the balance of the proceeds to be received from said sale.

Section 3.4. Disbursements from the Construction Fund. Issuer has, in the Indenture, authorized and directed Trustee to make payments from the Construction Fund to pay the Costs of Construction, or to reimburse Company for any Costs of Construction paid by it. Such payments shall be made upon receipt (a) of a requisition signed by an authorized representative of Company stating with respect to each payment to be made: (1) the requisition number, (2) the name and address of the person, firm or corporation to whom payment is due, (3) the amount to be paid, and (4) that each obligation mentioned therein has been properly incurred, is a proper charge against the Construction Fund, is unpaid therefrom, and has not been the basis of any previous withdrawal; and (b) a satisfactory inspection from an inspector satisfactory to the holders of the Bonds; provided, however, that no disbursements shall be permitted hereunder (i) except, in connection with construction work, with respect to a no lien contract acceptable to the holders of the Bonds, and (ii) until a satisfactory in place survey acceptable to the holders of the Bonds shall be delivered to the Trustee. At the time of each disbursement, the title insurance commitment or policy shall be endorsed to cover the amount of such disbursement and to extend coverage to include all matters other than Permitted Encumbrances as of the date of such disbursement.

Section 3.5. Furnishing Documents to Trustee. Company agrees to direct such requisitions to Trustee as may be necessary to effect payments out of the Construction Fund in accordance with Section 3.4 hereof.

Section 3.6. Establishment of Completion Date. The Completion Date shall be evidenced to Trustee and Issuer by a certificate signed by an authorized representative of Company stating that, except for amounts retained by Trustee at Company's direction for any Costs of Construction not then due and payable or being contested in good faith, (i) construction

and/or acquisition of the Project has been completed and any and all labor, services, materials, and supplies used in such construction have been paid for, (ii) all other facilities necessary in connection with the Project have been constructed, acquired and installed and all costs and expenses incurred in connection therewith have been paid and (iii) the Project Equipment has been installed to his satisfaction, the Project Equipment so installed is suitable and sufficient for the efficient operation of the Project for the intended purposes and all costs and expenses incurred in the acquisition and installation of the Project Equipment have been paid. Notwithstanding the foregoing, such certificate shall state that it is given without prejudice to any rights against third parties which exist at the date of such certificate or which may subsequently come into being. Upon receipt of such certificate, Trustee shall in accordance with Section 5.08 of the Indenture transfer all moneys then in the Construction Fund to a special escrow account within the Bond Fund, except any amount retained as aforesaid by Trustee for any Costs of Construction, provided that at least 90% of the amount actually expended has been expended on land or property of a character subject to the allowance for depreciation under Section 167 of the Internal Revenue Code of 1954, as amended. Trustee, as directed by Company, shall use any amount transferred to the Bond Fund from the original Loan (together with interest thereon, limited as provided in the Internal Revenue Service Rev. Proc. 79-5 at 26 CFR 601.201 and any subsequent amendments, modifications or replacements thereof) to redeem Series 1981 Bonds at the earliest redemption date, or upon receipt of an opinion from a firm of nationally recognized bond counsel to the effect that such use would not cause interest on the Bonds to become taxable, for any other use so approved by said bond counsel. Company shall make available to Trustee and Issuer on their written request a copy of the detail drawings for the Project as completed.

Section 3.7. Company Required to Pay in Event Construction Fund Insufficient. In the event the moneys in the Construction Fund available for payment of the Costs of Construction should not be sufficient to pay the Costs of Construction in full, Company agrees to complete the Project and to pay that portion of the Costs of Construction in excess of the moneys available therefor in the Construction Fund. Issuer does not make any warranty, either express or implied, that the moneys paid into the Construction Fund and available for payment of the Costs of Construction will be sufficient to pay all of the Costs of Construction. Company agrees that if after exhaustion of moneys in the Construction Fund Company should pay any portion of the

Costs of Construction pursuant to the provisions of this Section, it shall not be entitled to any reimbursement therefor from Issuer or from Trustee or from the holders of any of the Bonds, nor shall it be entitled to any diminution of the amounts payable under Section 4.1 hereof or under the Series 1981 Note or Notes.

Section 3.8. Investment of Construction Fund and Bond Fund Moneys. Any moneys held as a part of the Construction Fund and the Bond Fund shall be invested or reinvested by Trustee, at the request of and as directed by the Company, in (i) obligations issued or guaranteed by the United States of America; (ii) obligations issued or guaranteed by any person controlled or supervised by and acting as an instrumentality of the United States of America pursuant to authority granted by the Congress of the United States; (iii) negotiable or nonnegotiable certificates of deposit and time deposits issued by any bank, trust company or national banking association, including the Trustee; (iv) repurchase agreements issued by any bank, trust company or national banking association, including the Trustee, fully secured by obligations of the type specified in (i) and (ii) above. Trustee may make any and all such investments through its own bond department.

Section 3.9. Covenants With Respect to Arbitrage. Company hereby certifies and represents to Issuer that it is not expected that the proceeds of the Series 1981 Bonds will be used in a manner that would cause the Bonds to be arbitrage bonds under Section 103(c) of the Internal Revenue Code of 1954, as amended, and the proposed regulations promulgated under that Section. To the best knowledge and belief of Company, there are no facts or circumstances which would materially change the foregoing.

Company and Issuer, in reliance on Company's covenant herein, covenant and certify to each other and to and for the benefit of the purchasers of the Series 1981 Bonds that no use will be made of the proceeds from the issue and sale of the Series 1981 Bonds which would cause the Series 1981 Bonds to be classified as arbitrage bonds within the meaning of Section 103(c)(2) of the Internal Revenue Code of 1954, as amended. Pursuant to such covenant, Issuer and Company each obligates itself throughout the term of the issue of the Series 1981 Bonds not to violate the requirements of Section 103(c) of the Internal Revenue Code of 1954, as amended, and any regulations promulgated thereunder.

As used in this Section all words and terms shall have the same meanings as such words are given for the purposes of such Section 103(c) and the applicable regulations promulgated by the Department of the Treasury thereunder.

Section 3.10. Issuance of Additional Bonds. So long as no event of default (as defined in Section 8.1 hereof) has occurred and is continuing, Issuer agrees to use its best efforts, at the request of Company and with the consent of the holders of 100% of principal amount of the Bonds then outstanding, to authorize the issuance of Additional Bonds upon the terms and conditions provided herein and in Section 4.1 hereof and Section 2.12 of the Indenture. Additional Bonds may be issued to provide funds to finance the costs of completing the Project (including payment of costs referred to in Section 3.7 hereof) and for additions to the Project and the costs of the issuance and sale of the Additional Bonds and capitalized interest for such period and other costs reasonably related to the financing as shall be agreed upon by Company and Issuer, provided that the terms of such Additional Bonds, the purchase price to be paid therefor and the manner in which the proceeds therefrom are to be disbursed shall have been approved in writing by Company; and provided further that Company and Issuer shall have entered into an amendment to this Agreement to provide that, for all purposes of this Agreement the Bonds shall mean and include the Additional Bonds being issued as well as the Bonds now being issued and any Additional Bonds theretofore issued and Company shall issue an Additional Note or Notes to provide such amounts to be paid by Company to Issuer as shall be necessary to pay the principal of, premium, if any, and interest on the Additional Bonds as provided to be paid in the supplemental indenture with respect to the Additional Bonds required by Section 2.12 of the Indenture, and to extend the Agreement Term if the maturity of any of the Additional Bonds would otherwise occur after the expiration of the Agreement Term and Issuer shall have otherwise complied with the provisions of Section 2.12 of the Indenture with respect to the issuance of such Additional Bonds.

(End of Article III)

ARTICLE IV

PROVISIONS FOR PAYMENT

Section 4.1. Loan Payments and Other Amounts Payable; Notes; and Credits. Concurrently with the sale and delivery by Issuer of its Series 1981 Bonds, Company shall execute and deliver to Trustee the Series 1981 Note or Notes substantially in the form attached hereto as Exhibit B, pursuant to which Company will make payments sufficient to pay when due (whether at maturity, by acceleration or otherwise) the principal of, premium, if any, and interest on the Bonds.

Company also agrees to pay on or before April 30, 1982, and each April 30 thereafter of each year during the Agreement Term, an amount equal to the reasonable and necessary fees and expenses of Trustee and any paying agent not theretofore provided for and any reasonable and necessary fees and expenses of Issuer and the Commission caused by any default of Company pursuant to Article VIII of this Agreement or the Note or Notes.

In the event Company should fail to make any of the payments required in this Section or in the Note or Notes, the item or installment so in default shall continue as an obligation of Company until the amount in default shall have been fully paid.

Company also agrees that it shall make the payments provided in this Agreement and the Note or Notes regardless of whether or not the Project is used or useful, or whether any applicable laws, regulations or standards prevent or prohibit the use of the Project.

Concurrently with the sale and delivery by the Issuer of any Additional Bonds, the Company shall execute and deliver to the Trustee one or more Additional Notes payable to the order of the Issuer and endorsed by the Issuer to the Trustee in substantially the form of the Series 1981 Note or Notes with necessary and appropriate variations, omissions and insertions as are permitted or required by this Agreement; and such Additional Notes will:

- (a) be in a principal amount equal to the aggregate principal amount of the Bonds issued concurrently therewith (the "related Bonds") and shall bear the same series description as the related Bonds;
- (b) require payments of interest on the unpaid balance thereof at a rate equal to the rate of interest on the related Bonds;

(c) require installment payments of principal equal to the principal payments required to be made on the related Bonds with respect to Bond maturities and/or sinking fund payments, if any;

(d) contain provisions in respect of the prepayment of principal and premium, if any, identical with the optional redemption provisions of the related Bonds and such prepayment provisions may differ from the prepayment provisions of Notes of any other series; and

(e) require all payments under subsections (b) and (c) hereof to be made not less than one (1) business day prior to the due date for the corresponding payment to be made on the related Bonds.

The amount of any money in the Bond Fund which is either proceeds from the sale of any series of Bonds or earnings on investments made pursuant to the provisions of the Indenture which has been set aside, by the Trustee at the request of the Company, for payments of principal, whether at maturity or upon redemption, of Bonds of such series shall be credited against the obligation of the Company to pay the principal of the Note or Notes of such series.

The amount of any money in the Bond Fund which is either proceeds from the sale of any series of Bonds or earnings on investments made pursuant to the provisions of the Indenture which has been set aside, by the Trustee at the request of the Company, for payments of interest on the Bonds of such series shall be credited against the obligation of the Company to pay interest on the Note or Notes of such series.

The principal amount of any Series 1981 Bonds together, in the case of coupon Bonds, with all appurtenant unmatured coupons, purchased by the Company and delivered to the Trustee, or purchased by the Trustee and cancelled, or redeemed pursuant to Sections 2.2(k), 3.6, 4.10, 4.11 and 5.2 hereof, shall be credited against the obligation of the Company to pay the principal of the Series 1981 Note or Notes.

Section 4.2. Payments Pledged. It is understood and agreed that all payments made by Company pursuant to Section 4.1 hereof and the Series 1981 Note or Notes are pledged to Trustee pursuant to the Granting Clauses of the Indenture. Company assents to such pledge, and hereby agrees that, as to Trustee, its obligation to make such payments shall be absolute and shall not be subject to any defense or any right of set-off, counterclaim or recoupment arising out of any breach by Issuer

of any obligation to Company, whether hereunder or otherwise, or out of any indebtedness or liability at any time owing to Company by Issuer. Issuer hereby directs Company and Company hereby agrees to pay to Trustee at its principal office all said amounts payable by Company pursuant to Section 4.1 hereof and the Series 1981 Note or Notes.

Section 4.3. Obligations of Company Unconditional. The obligation of Company to make the payments pursuant to this Agreement and the Note or Notes and to perform and observe the other agreements on its part contained herein and therein shall be absolute and unconditional. Until such time as the principal of, premium, if any, and interest on the Bonds shall have been fully paid or provision for the payment thereof shall have been made in accordance with the Indenture, Company (i) will not suspend or discontinue any payments pursuant to this Agreement or the Note or Notes, (ii) will perform and observe all its other agreements contained in this Agreement and the Note or Notes and (iii) except as provided in Article IX hereof, will not terminate this Agreement or the Note or Notes for any cause including, without limiting the generality of the foregoing, failure to complete the Project, failure of title to the Project or any part thereof, any acts or circumstances that may constitute failure of consideration, destruction of or damage to the Project, commercial frustration of purpose, any change in the tax or other laws of the United States of America or of the State of Indiana or any political subdivision thereof. Company may, at its own cost and expense, prosecute or defend any action or proceeding or take any other action involving third persons which Company deems reasonably necessary in order to insure the construction, equipping and completion of the Project or to secure or protect its right of ownership, possession, occupancy and use hereunder, and in such event Issuer hereby agrees to cooperate fully with Company.

Section 4.4. No Abatement of Loan Payments. It is understood and agreed that Company shall be obligated to continue to pay the amounts specified herein and in the Note or Notes whether or not the Project is damaged, destroyed or taken in condemnation and that there shall be no abatement of any such payments and other charges by reason thereof.

Section 4.5. Insurance Required. Company agrees to insure the Project until all of the Bonds are paid (or provision made for payment thereof in accordance with the provisions of the Indenture) in such amounts (but in any event not less than the unpaid principal amount of the Bonds and unpaid payments on the Land Contract) as similar properties are usually insured for by companies similarly situated, against loss or damage of the kinds usually insured against by companies similarly situated,

including but not limited to insurance against loss or damage by fire and lightning with extended coverage endorsement, builders' risk insurance (for at least \$700,000 during the entire period of construction of the Project), public liability coverage, workmens' compensation coverage, boiler explosion insurance on steam boilers, pressure vessels and pressure piping (but only if steam boilers, pressure vessels and pressure piping have been installed in the Project) either by means of policies issued by reputable insurance companies duly qualified to do such business in the State of Indiana, or under a blanket insurance policy or policies which cover not only such property but other properties, and to provide insurance certificates to the Trustee at the commencement of each coverage period.

Section 4.6. Additional Provisions Respecting Insurance.

Any insurance policy issued pursuant to Section 4.5 hereof shall be so written or endorsed as to make losses, if any, payable to Company and Trustee as their respective interests may appear; provided, any such insurance policy may be so written or endorsed as to make losses which do not exceed \$20,000 for each occurrence payable directly to Company so long as it is not in default under this Agreement. The Net Proceeds of the insurance required in Section 4.5 hereof shall be applied as provided in Section 5.2 hereof. Each insurance policy provided for in Section 4.5 hereof (i) may provide that the policy does not cover the first \$20,000 of loss, with the result that Company is its own insurer to that extent and (ii) shall contain a provision to the effect that until all of the Bonds are paid (or provision made for the payment thereof in accordance with the provisions of the Indenture) the insurance company shall not cancel the policy or modify it materially and adversely to the interest of Company or Trustee without first giving written notice thereof to Company and Trustee at least ten days in advance of such cancellation.

Section 4.7. Advances. In the event Company shall fail to maintain the full insurance coverage required by this Agreement, Trustee may (but shall be under no obligation to) take out the required policies of insurance and pay the premiums on the same; and all amounts so advanced therefor by Issuer or Trustee shall become an additional obligation of Company to the one making the advancement, which amounts, together with interest thereon at the rate of 12 percent per annum or the maximum rate permitted by law, whichever is lesser, Company agrees to pay.

Section 4.8. Payment for Maintenance and Modifications of Project. Company agrees that during the Agreement Term it will, at its own expense (i) keep the Project in as reasonably safe condition as its operations shall permit, and (ii) keep the Building and Project Equipment and all other improvements

forming a part of the Project in good repair and in good operating condition, making from time to time all necessary repairs thereto (including external and structural repairs) and renewals and replacements thereof.

Company may, also at its own expense, make from time to time any additions, modifications or improvements to the Project it may deem desirable for its business purposes that do not adversely affect the structural integrity of the Building or materially reduce its value provided that all such additions, modifications and improvements to the Building or Project Equipment shall be located wholly within the boundary lines of the Project Site.

All such additions, modifications and improvements so made by Company shall become a part of the Project; provided, that any personal property, machinery, equipment or furniture installed by Company for use in connection with the operation of the Project without expense to Issuer which does not constitute a part of the Project and is not essential to the operation of the Project, may be removed by Company at any time and from time to time; and provided further, that any damage to the Project occasioned by such removal shall be repaired by Company at its own expense.

Company will not permit any mechanics' lien, security interest or other encumbrance to remain against the Project for labor or materials furnished in connection with any original construction, additions, modifications, improvements, repairs, renewals or replacements so made by it; provided, that if Company shall first notify the Trustee of its intention so to do, Company may in good faith contest any mechanics' or other liens filed or established against the Project, and in such event may permit the items so contested to remain undischarged and unsatisfied during the period of such contest and any appeal therefrom, unless the Issuer or the Trustee shall notify Company that by non-payment of any such items the lien of the Indenture as to any part of the Project will be materially endangered or the Project or any part thereof will be subject to loss or forfeiture, in which event Company shall promptly pay and cause to be satisfied and discharged all such unpaid items.

Section 4.9. Taxes, Other Governmental Charges and Utility Charges. Company will promptly pay or cause to be paid, as the same become due, all taxes and governmental charges of any kind whatsoever that may at any time be lawfully assessed or levied against or with respect to the Project or any interest therein or any machinery, equipment or other property installed or

brought by Company therein or thereon (including, without limiting the generality of the foregoing, any taxes levied upon or with respect to the revenues, income or profits of Company from the Project which, if not paid, will become a lien on the Project prior to or on a parity with the lien of the Indenture or a charge on the revenues and receipts therefrom prior to or on a parity with the charge thereon and the pledge or assignment thereof to be created and made in the Indenture), and including all ad valorem taxes lawfully assessed upon the land described in Exhibit A attached hereto and made part hereof, all utility and other charges incurred in the operation, maintenance, use, occupancy and upkeep of the Project and assessments and charges lawfully made by any governmental body for public improvements that may be secured by lien on the Project or on the land described in Exhibit A attached hereto and made a part hereof; provided, that with respect to special assessments or other governmental charges that may lawfully be paid in installments over a period of years, Company shall be obligated to pay only such installments as are required to be paid during the Agreement Term.

Company may, at its expense and in its own name and behalf, in good faith, contest any such taxes, assessments and other charges, and, in the event of any such contest, may permit the taxes, assessments or other charges so contested to remain unpaid during the period of such contest and any appeal therefrom, provided during such period enforcement of any such contested item shall be effectively stayed.

In the event that Company shall fail to pay any of the foregoing items required by this Section to be paid by Company, the Issuer or the Trustee may (but shall be under no obligation to) pay the same and any amounts so advanced therefor by the Issuer or the Trustee shall become an additional obligation of Company to the one making the advancement, which amounts, together with interest thereon at the rate of twelve percent (12%) per annum from the date thereof or the maximum rate permitted by law, whichever is less, Company agrees to pay.

Section 4.10. Payment for Release of Portions of Project Site. The Company shall have, and is hereby granted, the right to pursue the release from the lien of the Indenture any unimproved part of the Project Site (on which neither the Building nor Project Equipment is located but upon which transportation, parking or utility facilities may be located) at any time and from time to time upon payment to the Bond Fund of an amount equal to the purchase price paid for that portion of the land to be released, provided that it furnishes the Issuer and Trustee with the following:

(a) A notice in writing containing (i) an adequate legal description of that portion of the Project Site with respect to which such option is to be exercised, (ii) a statement that the Company intends to exercise its right to the release of such portion of the Project Site on a date stated, which shall not be less than forty-five (45) nor more than ninety (90) days from the date of such notice.

(b) A certificate of an Independent Engineer who is acceptable to the Trustee, dated not more than ninety (90) days prior to the date of the purchase and stating that, in the opinion of the person signing such certificate (i) the portion of the Project Site with respect to which the right is exercised is not needed for the operation of the Project for the purpose hereinabove stated, and (ii) the release will not impair the usefulness of the Project as an economic development facility and will not destroy the means of ingress thereto and/or egress therefrom.

The Trustee shall deposit such amount in the Bond Fund to redeem Bonds at the earliest possible date at the price set forth in Section 3.01 of the Indenture and will release from the lien of the Indenture such portion of the Project Site with respect to which the Company shall have exercised the right granted to it in this Section.

In the event the Company shall exercise the right granted to it under this Section, the Company shall not be entitled to any abatement or diminution of the payments under Section 4.1 hereof except as otherwise provided in Section 4.1 hereof, and if such option relates to Project Site on which transportation, parking or utility facilities are located, the Company shall retain an easement to use such transportation or utility facilities to the extent necessary for the efficient operation of the Project.

Section 4.11. Payment for Removal of Project Equipment. Company shall not be under any obligation to renew, repair or replace any inadequate, obsolete, worn out, unsuitable, undesirable or unnecessary Project Equipment. In any instance where Company in its sound discretion determines that any items of Project Equipment have become inadequate, obsolete, worn out, unsuitable, undesirable or unnecessary, Company may remove such items of Project Equipment from the Building and the Project Site and sell, trade in, exchange or otherwise dispose of them (as a whole or in part) without any responsibility or accountability to the Issuer or the Trustee therefor, provided that Company:

(a) Substitutes and installs anywhere in the Building or on the Project Site other machinery or equipment having equal or greater value (but not necessarily having the same function) in the operation of the Project, all of which substituted machinery or equipment shall be free of all liens and encumbrances (other than Permitted Encumbrances) but shall become a part of the Project Equipment; or

(b) (i) in the case of the sale of Project Equipment to anyone other than itself or in the case of the scrapping thereof, Company shall pay into the Bond Fund the proceeds from such sale or the scrap value thereof, as the case may be, (ii) in the case of the trade-in of such equipment for other equipment not to be installed in the Building or on the Project Site, the Company shall pay into the Bond Fund the amount of the credit received by it in such trade-in, and (iii) in the case of the sale or transfer of Project Equipment to Company or a related company, Company shall pay into the Bond Fund an amount equal to the original cost thereof less depreciation at rates calculated in accordance with generally accepted accounting practice.

In the event that Company prior to such removal of items of Project Equipment from the Building and the Project Site has acquired and installed machinery or equipment with its own funds which has become part of the Project Equipment, Company may take credit to the extent of the amount so spent by it against the requirement that it either substitute and install other machinery and equipment having equal or greater value or that it make payment into the Bond Fund, provided that the provisions of this sentence shall not relieve Company of its obligations under the first sentence of Section 4.8 hereof.

The removal from the Project of any portion of the Project Equipment pursuant to the provisions of this Section shall not entitle the Company to any abatement or diminution of the payments required under Section 4.1 hereof except as otherwise provided in Section 4.1 hereof.

Company will promptly report to the Trustee each such removal, substitution, sale and other disposition of any item of Project Equipment having a depreciated value (calculated in accordance with generally accepted accounting practice) of more than \$5,000 and will pay to the Trustee such amounts as are required by the provisions of the preceding subsection (b) of this Section to be paid into the Bond Fund to redeem Bonds at the earliest possible date at the price set forth in Section 3.01 of the Indenture promptly after the sale, trade-in, or other disposition requiring such payment; provided, that no

such report and payment need be made until the amount to be paid into the Bond Fund on account of all such sales, trade-ins, or other dispositions not previously reported aggregates at least \$50,000.

Company will pay any costs (including counsel fees) incurred in subjecting to the lien of the Indenture any items of machinery or equipment that under the provisions of this Section are to become a part of the Project Equipment.

Company will not remove, or permit the removal of, any of the Project Equipment from the Project Site except in accordance with the provisions of this Section.

(End of Article IV)

ARTICLE V

DAMAGE, DESTRUCTION AND CONDEMNATION; USE OF NET PROCEEDS

Section 5.1. Damage, Destruction and Condemnation. Unless Company exercises its option to prepay the Loan pursuant to the provisions of Section 9.1 hereof, if prior to full payment of the Bonds (or provision for payment thereof in accordance with the provisions of the Indenture) (i) any portion of the Project is damaged or destroyed, or (ii) title to, or the temporary use of, any portion of the Project or any estate of Company in the Project or any part thereof shall be taken under the exercise of the power of eminent domain by any governmental body or by any person, firm or corporation acting under governmental authority, Company shall be obligated to continue to pay the amounts specified herein and in the Note or Notes.

Section 5.2. Application of Net Proceeds. Except for any portion of the Net Proceeds from policies of insurance paid to Company pursuant to policy provisions or endorsements permitted under Section 4.6 hereof, unless Company exercises its option to prepay the Loan pursuant to the provisions of Section 9.1 hereof, Trustee and Company will cause the Net Proceeds of any insurance proceeds or condemnation award resulting from any event described in Section 5.1 hereof to be deposited in a separate trust account, and the Net Proceeds shall be applied in one or more of the following ways as shall be elected by Company in a written notice to Trustee:

(a) The prompt repair, restoration, relocation, modification or improvement of the Project by Company to substantially the same condition as existed prior to the event causing such damage or destruction or the exercise of such power of eminent domain. Issuer has, in the Indenture, authorized and directed Trustee to make payments from such separate trust account for such purposes or to reimburse Company for costs paid by it in connection therewith upon receipt of a requisition acceptable to Trustee signed by an authorized representative of the Company stating with respect to each payment to be made: (1) the requisition number, (2) the name and address of the person, firm or corporation to whom payment is due, (3) the amount to be paid, and (4) that each obligation mentioned therein has been properly incurred, is a proper charge against such trust account, is unpaid, and has not been the basis of any previous withdrawal. Any moneys held by the Trustee in the separate trust account under the provisions of this paragraph shall at the written request of an authorized Company

representative, be invested or reinvested by the Trustee in investments enumerated in Section 3.8 hereof. The Company shall pay to the Trustee the amount of any net losses with respect to principal on such investments. Any balance of the Net Proceeds remaining after such work has been completed shall be transferred to the Bond Fund to redeem Bonds at the earliest possible date at the prices set forth in Section 3.01 of the Indenture, or if the Bonds have been fully paid (or provisions for payment thereof have been made in accordance with the provisions of the Indenture), any balance remaining in the Bond Fund shall be paid to Company.

(b) The Net Proceeds may be paid into the Bond Fund and applied to redeem any portion of the Bonds then outstanding at the earliest possible date at the prices set forth in Section 3.01 of the Indenture if Company shall furnish to Issuer and Trustee a certificate of an authorized representative of Company acceptable to Issuer and Trustee stating that (i) the property forming a part of the Project that was damaged or destroyed by such casualty or was taken by such condemnation proceedings is not essential to Company's use or possession of the Project; or (ii) the repair, restoration, relocation, modification, or improvement of the Project contemplated by subparagraph (a) of this Section 5.2 is not economically practicable.

Section 5.3. Insufficiency of Net Proceeds. If the Net Proceeds are insufficient to pay in full the cost of any repair, restoration, relocation, modification or improvement referred to in Section 5.2(a) hereof, Company will nonetheless complete the work and will pay any cost in excess of the amount of the Net Proceeds held by the Trustee.

(End of Article V)

ARTICLE VI

SPECIAL COVENANTS

Section 6.1. No Warranty of Condition or Suitability by Issuer. Issuer makes no warranty, either express or implied, as to the Project or that it will be suitable for Company's purposes or needs.

Section 6.2. Company to Maintain its Corporate Existence; Conditions Under Which Exceptions Permitted. The Company agrees that during the Agreement Term it will maintain its corporate existence, will not dissolve or otherwise dispose of all or substantially all of its assets, and will not consolidate with or merge into another corporation, or permit one or more other corporations to consolidate with or merge into it without the written consent of the holders of all outstanding Bonds.

Section 6.3. Right of Access to the Project. Company agrees that the Issuer, the Trustee and their or either of their duly authorized agents shall have the right at all reasonable times during business hours, subject to Company's safety and security requirements and subject to the rights of the Company under the provisions of the Land Contract, to enter upon the Project Site and to examine and inspect the Project without interference or prejudice to the Company's operation.

Company further agrees that the Issuer and its duly authorized agents shall have such rights of access to the Project as may be reasonably necessary to cause to be completed the construction and installation provided for in Section 3.1 hereof, and thereafter for the proper maintenance of the Project, in the event of failure by Company to perform its obligations under Section 4.8 hereof.

Section 6.4. Granting of Easements. If no event of default shall have happened and be continuing, the Company may at any time or times grant easements, licenses, rights-of-way (including the dedication of public highways) and other rights or privileges in the nature of easements with respect to any property subject to the lien of the Indenture, free from the lien of the Indenture, or Company may release existing easements, licenses, rights-of-way and other rights or privileges with or without consideration, and the Issuer agrees that it shall execute and deliver and will cause and direct the Trustee to execute and deliver any instrument necessary or appropriate to confirm and grant or release any such easement, license, right-of-way or other right or privilege upon receipt of: (i) a copy of the instrument of grant or release, (ii) a written

application signed by an authorized representative of Company requesting such instrument, and (iii) a certificate executed by an officer or representative of Company stating (1) that such grant or release is not detrimental to the proper conduct of the business of Company, and (2) that such grant or release will not impair the effective use or interfere with the operation of the Project and will not materially weaken, diminish or impair the security intended to be given by or under the Indenture.

Section 6.5. Release and Indemnification Covenants. Company releases the Issuer from, covenants and agrees that the Issuer shall not be liable for, and agrees to indemnify and hold the Issuer harmless against, any loss or damage to property or any injury to or death of any person occurring on or about or resulting from any defect in the Project or any other improvements or installations on the Project Site; provided, that the indemnity provided in this sentence shall be effective only to the extent of any loss that may be sustained by the Issuer in excess of the Net Proceeds received from any insurance carried with respect to the loss sustained, and provided further, that the indemnity shall not be effective for damages that result from sole negligence or intentional acts on the part of the Issuer. To this end, Company will provide for and insure, in the public liability policies required in Section 4.5 hereof, not only its own liability in respect of the matters there mentioned but also the liability herein assumed.

Section 6.6. Tax Exempt Status of Bonds. Company further covenants that it will not take, or fail to take, any action which action or failure will cause the interest on the Bonds to become subject to federal income taxes pursuant to the provisions of Section 103(b) of the Internal Revenue Code so long as any of the Bonds are outstanding under the Indenture; provided, that Company shall not have violated this covenant if the interest on any of the Bonds becomes taxable to a person who is a substantial user of the Project or a related person pursuant to the provisions of Section 103(b)(9) of the Internal Revenue Code. In the event that the Bonds are to be issued pursuant to the \$10,000,000 election under Section 103(b) of the Internal Revenue Code, Issuer shall file prior to the issuance of the Bonds an election statement pursuant to Reg. Section 1.103-10(b) with the district director or director of the regional service center with whom the principal user or users (as such term is defined in the regulations and rulings relevant to Section 103(b) of the Internal Revenue Code) of the proceeds of such issue, or facilities acquired, constructed, reconstructed or improved with the proceeds of such issue, are required to file their income tax returns (as provided in Section 6091 of the

Internal Revenue Code) for the taxable year during which the election is made, and such principal user or users shall attach a copy of such election statement to their income tax return (or returns) for such taxable year. Thereafter, each such principal user or users shall also file a supplemental statement which lists by date and amount any subsequent Section 103(b)(6)(D) capital expenditures, and such supplemental statements shall be filed with the district director or director of the regional service center with whom such principal user's (or users') income tax return (or returns) is (are) required to be filed (as provided in Section 6091 of the Internal Revenue Code) on the due date prescribed for filing such return (or returns) (without regard to any extensions of time). Issuer and Company agree to deliver or cause to be delivered to Trustee each statement required to be filed hereunder simultaneously with each such filing. Company further agrees to deliver to Trustee simultaneously with each such filing certification from an independent certified public accountant of the amounts and dates of such Section 103(b)(6)(D) capital expenditures so reported to the Internal Revenue Service.

Section 6.7. Further Assurances and Corrective Instruments. To the extent permitted by law, Issuer and Company agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for carrying out the intention of or facilitating the performance of this Agreement or the Note or Notes.

Section 6.8. Annual Statement. Company agrees to furnish Trustee annually a balance sheet and income statement certified by its regular independent certified public accountants. Company also agrees to furnish Trustee a copy of each of the interim financial statements and reports that Company furnishes to its stockholders. Such financial statements and reports shall be furnished to Trustee at the same time as they are furnished to its stockholders.

Section 6.9. Land Contract. Company agrees to maintain the Land Contract in full force and effect, not to permit a default, acceleration, or foreclosure thereunder and not to amend, modify, or supplement, or permit any amendment, modification, or supplement thereof, with the written consent of the holders of all Bonds, except in the event the Company pays the entire amount owed thereunder and completes the purchase of the Project Site, at which time, Company agrees to execute, deliver and record a full mortgage of the Project Site to the Trustee for the benefit of the Bonds.

(End of Article VI)

ARTICLE VII

ASSIGNMENT, REDEMPTION, MORTGAGING AND SELLING; INSTALLATION OF MACHINERY AND EQUIPMENT

Section 7.1. Assignment. This Agreement and the Note or Notes may not be assigned by Company without the written consent of the holders of all Bonds.

Section 7.2. Assignment and Pledge of Interest in this Agreement by Issuer. Any assignment or pledge by Issuer to Trustee pursuant to the Indenture of any interest in this Agreement or the Note or Notes, or any moneys receivable under this Agreement or the Note or Notes shall be subject and subordinate to this Agreement and the Note or Notes.

Section 7.3. Redemption of Bonds. Upon the agreement of Company to deposit moneys in the Bond Fund in an amount sufficient to redeem Bonds subject to redemption, Trustee at the request of Company, shall forthwith take all steps (other than the payment of the money required for such redemption) necessary under the applicable redemption provisions of the Indenture to effect redemption of all or part of the then outstanding Bonds, as may be specified by Company, on the earliest redemption date on which such redemption may be made under such applicable provisions.

Section 7.4. References to Bonds Ineffective After Bonds Paid. Upon payment in full of the Bonds (or provision for payment thereof having been made in accordance with the provisions of the Indenture) and payment of all fees and charges of Trustee, all references in this Agreement to the Bonds and Trustee shall be ineffective and neither Trustee nor the holders of any of the Bonds shall thereafter have any rights hereunder, saving and excepting those that shall have theretofore vested.

Section 7.5. Mortgaging of Project. Company shall mortgage, assign and grant a security interest in the Project, and the Issuer shall assign its interest in and pledge any moneys receivable under this Agreement, to the Trustee pursuant to the Indenture as security for payment of the principal of, premium, if any, and interest on the Bonds, but each such mortgage, assignment or pledge shall be subject and subordinate to this Agreement.

Section 7.6. Restrictions on Sale of Project. Company agrees that, except as set forth in Section 7.5 hereof or other provisions of this Agreement or the Indenture, it will not sell, convey, mortgage, encumber or otherwise dispose of any part of the Project during the Agreement Term.

ARTICLE VII

ASSIGNMENT, REDEMPTION, MORTGAGING AND SELLING; INSTALLATION OF MACHINERY AND EQUIPMENT

Section 7.1. Assignment. This Agreement and the Note or Notes may not be assigned by Company without the written consent of the holders of all Bonds.

Section 7.2. Assignment and Pledge of Interest in this Agreement by Issuer. Any assignment or pledge by Issuer to Trustee pursuant to the Indenture of any interest in this Agreement or the Note or Notes, or any moneys receivable under this Agreement or the Note or Notes shall be subject and subordinate to this Agreement and the Note or Notes.

Section 7.3. Redemption of Bonds. Upon the agreement of Company to deposit moneys in the Bond Fund in an amount sufficient to redeem Bonds subject to redemption, Trustee at the request of Company, shall forthwith take all steps (other than the payment of the money required for such redemption) necessary under the applicable redemption provisions of the Indenture to effect redemption of all or part of the then outstanding Bonds, as may be specified by Company, on the earliest redemption date on which such redemption may be made under such applicable provisions.

Section 7.4. References to Bonds Ineffective After Bonds Paid. Upon payment in full of the Bonds (or provision for payment thereof having been made in accordance with the provisions of the Indenture) and payment of all fees and charges of Trustee, all references in this Agreement to the Bonds and Trustee shall be ineffective and neither Trustee nor the holders of any of the Bonds shall thereafter have any rights hereunder, saving and excepting those that shall have theretofore vested.

Section 7.5. Mortgaging of Project. Company shall mortgage, assign and grant a security interest in the Project, and the Issuer shall assign its interest in and pledge any moneys receivable under this Agreement, to the Trustee pursuant to the Indenture as security for payment of the principal of, premium, if any, and interest on the Bonds, but each such mortgage, assignment or pledge shall be subject and subordinate to this Agreement.

Section 7.6. Restrictions on Sale of Project. Company agrees that, except as set forth in Section 7.5 hereof or other provisions of this Agreement or the Indenture, it will not sell, convey, mortgage, encumber or otherwise dispose of any part of the Project during the Agreement Term.

Section 7.7. Installation of Company's Own Machinery and Equipment. In addition to the machinery and equipment installed by Company under the provisions of Section 4.8 hereof which does not become part of the Project Equipment thereunder, Company may from time to time, in its sole discretion and at its own expense, install additional machinery and equipment in the Building or on the Project Site.

All machinery and equipment so installed by Company shall remain the sole property of Company in which neither the Issuer nor the Trustee shall have any interest; may be modified or removed at any time while Company is not in default hereunder; and shall not be subject to the lien of the Indenture.

Company shall tag or otherwise suitably identify all tangible personal property constituting the sole property of Company and not constituting a part of the Project Equipment, so as to indicate the lack of any interest of Issuer and the Trustee therein.

(End of Article VII)

ARTICLE VIII

EVENTS OF DEFAULT AND REMEDIES

Section 8.1. Events of Default Defined. The following shall be "events of default" under this Agreement and the Note or Notes and the terms "event of default" and "default" shall mean, whenever they are used in this Agreement and the Note or Notes, any one or more of the following events:

(a) Failure by Company to make the payments required under the Note or Notes at the time specified therein and the continuation of said failure for a period of one day.

(b) a default under the Land Contract.

(c) Failure by Company to observe and perform any covenant, condition or agreement in this Agreement or obligation to prepay the Note or Notes on its part to be observed or performed, other than as referred to in Section 8.1(a) and (b), for a period of thirty days after written notice, specifying such failure and requesting that it be remedied, given to Company by Issuer or Trustee, unless Issuer and Trustee shall agree in writing to an extension of such time prior to its expiration; provided, however, if the failure stated in the notice cannot be corrected within the applicable period, Issuer and Trustee will not unreasonably withhold their consent to an extension of such time if corrective action is instituted by Company within the applicable period and diligently pursued until the default is corrected.

(d) The dissolution or liquidation of the Company; or the filing by the Company of a voluntary petition in bankruptcy, or failure by the Company promptly to forestall or remove any execution, garnishment or attachment of such consequence as will impair its ability to continue its business or fulfill its obligations hereunder; or the entry of an order for relief under Title 11 of the United States Code, as the same may from time to time be hereinafter amended, against the Company; or the filing of a petition or answer proposing the entry of an order for relief against the Company under Title 11 of the United States Code, as the same may from time to time be hereinafter amended, or the reorganization, arrangement or debt readjustment of the Company under any present or future federal bankruptcy act or any similar federal or state law in any court and the failure of said petition or answer to be discharged or denied within ninety days after the filing thereof; or the appointment of a custodian (including without limitation a receiver, trustee or liquidator of the

Company) of all or a substantial part of the property of the Company, and the failure of such a custodian to be discharged within ninety days after such appointment; or the taking by such a custodian of possession of the Company or a substantial part of its property, and the failure of such taking to be discharged within ninety days after such taking; or the Company's consent to or acquiescence in such appointment or taking; or assignment by the Company for the benefit of its creditors; or the entry by the Company into an agreement of composition with its creditors. The term "dissolution or liquidation of the Company," as used in this subsection, shall not be construed to include the cessation of the corporate existence of the Company resulting either from a merger or consolidation of the Company into or with another corporation or a dissolution or liquidation of the Company following a transfer of all or substantially all of its assets as an entirety, under the conditions permitting such actions required in Section 6.2 hereof.

The foregoing provisions of this Section are subject to the following limitations: If by reason of Force Majeure Company is unable in whole or in part to carry out its agreement on its part herein contained, other than the obligations on the part of Company to make payments pursuant to Article IV hereof or the Note or Notes, Company shall not be deemed in default during the continuance of such inability. Company agrees, however, to remedy with all reasonable dispatch the cause or causes preventing Company from carrying out its agreement; provided, that the settlement of strikes, lockouts and other industrial disturbances shall be entirely within the discretion of Company, and Company shall not be required to make settlement of strikes, lockouts and other industrial disturbances by acceding to the demands of the opposing party or parties when such course is in the judgment of Company unfavorable to Company.

Section 8.2. Remedies on Default. Whenever any event of default referred to in Section 8.1 hereof shall have happened and be continuing, Trustee may take any one or more of the following remedial steps:

(a) By written notice to Company, Trustee may declare the Note or Notes and all amounts payable thereunder, in a sum equal to all amounts then due and payable on the Bonds whether by acceleration of maturity or otherwise, to be immediately due and payable as liquidated damages, whereupon the same shall become immediately due and payable.

(b) Trustee may take whatever action at law or in equity may appear necessary or desirable to collect the amounts then due and thereafter to become due, or to enforce performance and observance of any obligation, agreement or covenant of Company under this Agreement and the Note or Notes.

Any amounts collected pursuant to action taken under this Section 8.2 shall be paid into the Bond Fund and applied in accordance with the provisions of the Indenture or, if the Bonds have been fully paid (or provision for payment thereof has been made in accordance with the provisions of the Indenture), to Company.

Section 8.3. No Remedy Exclusive. No remedy herein conferred upon or reserved to Issuer or Trustee is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or the Note or Notes or now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle Issuer or Trustee to exercise any remedy reserved to it in this Article, it shall not be necessary to give any notice, other than such notice as may be required in this Article. Such rights and remedies as are given Issuer hereunder shall also extend to Trustee, and Trustee and the holders of the Bonds, subject to the provisions of the Indenture, shall be entitled to the benefit of all covenants and agreements herein contained.

Section 8.4. Agreement to Pay Attorneys' Fees and Expenses. In the event Company should default under any of the provisions of this Agreement or the Note or Notes and Issuer or Trustee should employ attorneys or incur other expenses for the collection of any payments or the enforcement of performance or observance of any obligation or agreement on the part of Company herein or in the Note or Notes contained, Company agrees that it will on demand therefor pay to Issuer or Trustee the reasonable fee of such attorneys and such other expenses so incurred by Issuer or Trustee.

Section 8.5. No Additional Waiver Implied by One Waiver. In the event any agreement contained in this Agreement or in the Note or Notes should be breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder or thereunder.

(End of Article VIII)

ARTICLE IX

PREPAYMENT OF LOAN; INCREASED INTEREST

Section 9.1. Option to Prepay the Loan. Company shall have and is hereby granted the option to prepay the amounts payable under this Agreement and the Series 1981 Note or Notes for the purpose of redeeming the Series 1981 Bonds, including the principal of, premium, if any, and interest on the Series 1981 Note or Notes, in whole or in part, on any interest payment date, so long as Company is not in default under this Agreement.

Section 9.2. Conditional Obligation to Pay Increased Interest Due to Taxability. Upon the occurrence of a Determination of Taxability, interest on the Series 1981 Bonds shall immediately increase to the Taxable Rate from the Date of Taxability through the Agreement Term. From the occurrence of a Determination of Taxability, increased interest shall begin to be payable on the last day of the month of such occurrence, such payment of increased interest being due for the entire month of such occurrence. In addition, within sixty (60) days after the Determination of Taxability, the payments of additional interest from the Date of Taxability to the month before such Determination of Taxability occurred shall be paid by the Company to Issuer for payment to the holders of the Series 1981 Bonds.

Section 9.3. Prepayment Price. In the case of any prepayment pursuant to Section 9.1 of this Agreement for the purpose of redeeming the Series 1981 Bonds, the amount payable shall be a sum sufficient, together with other funds deposited with Trustee and available for such purpose, to redeem all or part of the Series 1981 Bonds then outstanding at 100% of the principal amount thereof, plus accrued interest to the date of redemption and to pay all reasonable and necessary expenses of Trustee accrued and to accrue through redemption of the Series 1981 Bonds so redeemed.

Section 9.4. Notice of Prepayment. To exercise any of the options or obligations set forth in this Article IX Company shall give written notice to Issuer and Trustee which shall specify therein the date of closing of the prepayment, which date shall be not less than 45 days nor more than 90 days from the date the notice is mailed.

Section 9.5. Relative Position of this Article and Indenture. The rights and options granted to Company in this Article shall be and remain prior and superior to the Indenture and may be exercised whether or not Company is in default hereunder; provided that such default will not result in nonfulfillment of any condition to the exercise of any such right or option.

(End of Article IX)

ARTICLE X

MISCELLANEOUS

Section 10.1. Agreement Term. This Agreement shall remain in full force and effect from the date hereof to and including April 30, 1987, provided, however, that this Agreement will terminate prior to said date if Company shall prepay the amounts due under the Series 1981 Note or Notes and the Agreement pursuant to Article IX hereof.

Section 10.2. Notices. All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed given when delivered or mailed by registered mail, postage prepaid, addressed as follows: if to Issuer, Attention: Clerk, City Building, Fort Wayne, Indiana 46806; if to Company, Attention: President, 4133 New Haven Avenue, Fort Wayne, Indiana 46803; and if to Trustee, Attention: Trust Department, 116 East Berry Street, Fort Wayne, Indiana 46802. A duplicate copy of each notice, certificate or other communication given hereunder by either Issuer or Company to the other shall also be given to Trustee. Issuer, Company and Trustee may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent.

Section 10.3. Binding Effect. This Agreement shall inure to the benefit of and shall be binding upon Issuer, Company and their respective successors and assigns, subject, however, to the limitations contained in Section 6.2, 7.1 and 7.2 hereof.

Section 10.4. Severability. In the event any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

Section 10.5. Amounts Remaining in Bond Fund. It is agreed by the parties hereto that any amounts remaining in the Bond Fund upon expiration or sooner termination of the Agreement Term, as provided in this Agreement, after payment in full of the Bonds (or provision for payment thereof having been made in accordance with the provisions of the Indenture) and the fees and expenses of Trustee in accordance with the Indenture shall belong to and be paid to Company by Trustee as an overpayment.

Section 10.6. Amendments, Changes and Modifications. Subsequent to the issuance of Bonds and prior to their payment in full (or provision for the payment thereof having been made in accordance with the provisions of the Indenture), neither this

Agreement nor the Note or Notes may be effectively amended, changed, modified, altered or terminated without the written consent of Trustee, which consent is not to be unreasonably withheld.

Section 10.7. Execution in Counterparts. This Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 10.8. Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Indiana.

Section 10.9. Captions. The captions or headings in this Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions or Sections of this Agreement.

(End of Article X)

IN WITNESS WHEREOF, Issuer and Company have caused this Agreement to be executed in their respective corporate names and their respective corporate seals to be hereunto affixed and attested by their duly authorized officers, all as of the date first above written.

CITY OF FORT WAYNE, INDIANA

By Winfield Moses, Jr., Mayor

(SEAL)

Attest:

Charles W. Westerman, Clerk

GLADIEUX REFINERY, INC.

By James M. Gladieux, President

(SEAL)

Attest:

EXHIBIT A

THE ECONOMIC DEVELOPMENT FACILITIES

EXHIBIT B

GLADIEUX REFINERY, INC.

SERIES 1981 PROMISSORY NOTE

FOR VALUE RECEIVED, the undersigned, Gladieux Refinery, Inc. ("Company"), a corporation organized and existing under the laws of the State of Indiana, hereby promises to pay to the order of the City of Fort Wayne, Indiana ("Issuer"), on or before 11 o'clock a.m. (prevailing Fort Wayne time) the principal sum of \$700,000 in installments as provided below: on the last day of each month during the term of the Loan Agreement (the "Agreement") dated as of May 1, 1981 between Issuer and Company commencing on May 31, 1981, a sum which, together with other moneys available therefor in the Bond Fund under the Mortgage and Indenture of Trust (the "Indenture") dated as of May 1, 1981 among Issuer, Company and Lincoln National Bank and Trust Company of Fort Wayne, Fort Wayne, Indiana, as Trustee (the "Trustee") will equal the sum of (i) the interest which will become due on the Series 1981 Bonds (as hereinafter defined) on the next succeeding day and (ii) the principal amount of the Series 1981 Bonds which will become due at maturity on the next succeeding day.

The monthly payments specified in this Series 1981 Note shall be applied first to the payment of interest on the unpaid principal indebtedness, the balance to the reduction of said principal, provided that if the regular monthly payment is made in advance, the interest shall be computed and immediately collected from such advance payment as if the regular monthly payment was made when due. Prepayments of principal shall reduce the number of installment payments, but shall not reduce the amount of such installment payments.

Payments of both principal and interest are to be endorsed to the Trustee, and are to be made directly to the Trustee for the account of the Issuer pursuant to such endorsement. Such endorsement is to be made as security for the payment of the bonds of the designated "City of Fort Wayne Economic Development Revenue Bonds, Series 1981 (Gladieux Refinery, Inc. Project)" issued pursuant to the Indenture (the "Series 1981 Bonds"). All of the terms, conditions and provisions of the Indenture are, by this reference thereto, incorporated herein as a part of this Series 1981 Note.

This Series 1981 Note is issued pursuant to the Agreement, and is entitled to the benefits, and is subject to the conditions thereof. The obligations of Company to make the payments

required hereunder shall be absolute and unconditional without any defense or right of set-off, counterclaim or recoupment by reason of any default by Issuer under the Agreement or under any other agreement between Company and Issuer or out of any indebtedness or liability at any time owing to the Company by the Issuer or for any other reason.

This Series 1981 Note is subject to prepayment and the initial interest hereon is subject to being increased under the terms and conditions, and in the amounts, provided in Article IX of the Agreement.

If an "event of default" occurs under Section 8.1 of the Agreement, the principal of this Series 1981 Note may be declared due and payable in the manner and to the effect provided in Article VIII of the Agreement.

No recourse shall be had for the payment of the principal or prepayment price of, or interest on this Series 1981 Note, or for any claim based hereon or on the Agreement, against any officer, director or stockholder, past, present or future, of Company as such, either directly or through Company, under any constitutional provision, statute or rule of law, or by the enforcement of any assessment or by any legal or equitable proceeding or otherwise.

The Company hereby unconditionally waives diligence, presentment, protest, notice of dishonor and notice of default of the payment of any amount at any time payable to the Issuer under or in connection with this Series 1981 Note. All amounts payable hereunder are payable without relief from valuation and appraisal laws.

In any case where the date of payment hereunder shall be in the City of Fort Wayne, Indiana, a Saturday, Sunday or a legal holiday or a day on which banking institutions are authorized by law to close, then such payment shall be made on the next preceding business day with the same force and effect as if made on the date of payment hereunder.

All terms used in this Series 1981 Note which are defined in the Agreement shall have the meanings assigned to them in the Agreement.

IN WITNESS WHEREOF, Company has caused this Series 1981
Note to be duly executed, attested and delivered as of May 1,
1981.

GLADIEUX REFINERY, INC.

By _____
James M. Gladieux, President

(SEAL)

Attest:

ENDORSEMENT

Pay to the order of Lincoln National Bank and Trust Company of Fort Wayne, as Trustee under the Mortgage and Indenture of Trust dated as of May 1, 1981, without recourse against the Issuer.

CITY OF FORT WAYNE

By Winfield Moses, Jr., Mayor

(SEAL)

Attest:

Charles W. Westerman, Clerk